



BULKY DOCUMENTS

(Exceeds 100 pages)

Proceeding/Serial No: **91183905**

Filed: **06/25/2010**

Title: **RESPONSE TO MOTION FOR SANCTIONS**

Part 1 of 1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

TTAB

GOGLE, INC., Opposer

v.

Eric Watson, Applicant

RESPONSE TO MOTION FOR SANCTIONS

Excerpts of the Opposer's Motion for Sanctions are included here and addressed portion by portion for ease of reference, and the Motion for Sanctions is also included in its entirety (*See* Attachment 1).

Opposer:

On October 9, 2006, Opposer announced it would acquire YouTube. *See* Attachment 1. On October 12, 2006—three days following Opposer's announcement—Applicant applied for federal registration for the mark GOOTUBE.COM. On October 16, 2006, when asked about the GOOTUBE.COM mark and domain name, Applicant's e-mailed response was quoted in an on-line interview as stating "Hell yeah i [sic] want to sell . . . If Google, Yahoo!, MSN, or some other forward-thinking investor wanted to dig deep enough and purchase this name to hedge their bet, i [sic] would certainly consider

offers. I am also considering putting the name up for sale at live auction towards the end of the month, in hopes of a record-high sale." *See* Attachment 2.

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When a popular blogger at zdnet.com contacted Applicant via email for comment (this was not an online interview, as suggested by Opposer), he asked if Applicant wanted to sell, given the fact that there would likely be interested potential buyers of the domain name. The Opposer has improperly paraphrased Applicant's response. At the time, Applicant was nearly destitute, having gone through two (2) foreclosures, and had stated that "I would certainly *consider* offers [from any source]," and that "I



06-25-2010

was *considering* putting the name up for sale at auction." The Applicant ultimately did neither one. Applicant also stated that he had not had the resources in the previous year to do what he had intended with this domain name. The blogger in this article, who was a professional blogger in the fields of broadband and internet technologies, comments that "Eric secured the gootube domain a year ago, before hardly anyone had heard of Youtube and probably no one ever thought the video site would be so popular that it would be courted by Google and others." (See Opposer's MFS Attachment 2)

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Opposer:

Applicant has also admitted he was aware of Opposer's YOUTUBE and GOOGLE marks prior to his adoption of and application for the GOOTUBE.COM mark. See Attachment 3, Requests Nos. 33-36.²

.....

Applicant has not admitted to being aware of Opposer's YOUTUBE and GOOGLE marks prior to adoption of, or application for the GOOTUBE.COM mark. In fact, YOUTUBE was not a registered mark at the time, and Applicant was not even aware of the company when he acquired the gootube.com domain name.

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Opposer:

While Applicant's application for the GOOTUBE.COM covers "hosting of digital media content for infants, children, and the parents of small children" services in Class 42, Applicant has admitted he has never used the mark for such services or in commerce at all. See Applicant's Answer to Amended Opposition of July 25, 2008 at No. 18 (Dkt. #7); *see also* Attachment 3, Requests Nos. 1, 5, and 9.

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Applicant has admitted to not using the GOOTUBE.COM mark in commerce, but due only to extenuating financial, emotional, and very personal extenuating circumstances, and that he had been advised that, ideally, a trademark registration should be secured *before* such an undertaking.

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Opposer:

Contrary to Applicant's assertions that he intended to use the GOOTUBE.COM mark in connection with digital content for children and parents, Applicant has maintained—and currently maintains—a pay-per-click site at the www.gootube.com domain. *See* Attachment 4. Notably, a number of the links at Applicant's site are for adult- and pornography-related sites, while family-oriented content is noticeably lacking. *See* Attachment 4.

.....
The Opposer is purposely, falsely, and maliciously trying to misrepresent Applicant's character and intentions to the Board. The domain gootube.com has always been parked, as are most unused registered domains. This parked page is maintained by a "parking company," not the Applicant, and furthermore, the fact that there is ONE link for adult-related sites is hardly an indication of the domain's intended use. Every link on the gateway parked page clicks through to another more targeted advertising page based on that particular link. Of the 30 links on the page, ONE of them is discreetly labeled "For Adults." All of the others are movie, video, and television related, and all links are software-generated based on the likely interests of someone searching the term "tube." Part of Opposers primary business is a parking program of its own called Adsense for Domains, and Opposer is well aware of the way in which parked pages work and in which they are generated (See Attachment 2). Opposer is therefore knowingly and deliberately trying to mislead the Board. The Opposer has included two more pages as attachments, which are the secondary targeted pages of the "For Adults" link on the primary parked page, yet included none, of the hundreds of secondary links generated by clicking any of the others. (See Opposer's MFS Attachment 3).
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Opposer:

On March 3, 2008, Opposer contacted Applicant's counsel, Mike Hughes, regarding Opposer's intent to oppose Application Serial No. 77020099 for GOOTUBE.COM in Class 42 (the "GOOTUBE Application") and proposed that the parties work towards an amiable settlement. *See* Attachment 5. In light of the parties' settlement negotiations, at the parties' request, the Board extended Opposer's deadline to file an opposition until May 5, 2008. The parties failed to reach a settlement prior to the May 5, 2008 opposition deadline. Opposer timely filed this Opposition on May 5, 2008 and filed an Amended Opposition on July 25, 2008 (Dkt. # 5). Applicant filed an Answer to the Amended Opposition on August 28, 2008 (Dkt. #7).

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The Opposer contacted Applicant's counsel late in the afternoon on March 3, 2008, just two days prior to the March 5, 2008 Opposition deadline. The only reason that Opposer suggested an "amicable settlement" was that there was hardly enough time to file a formal Opposition. In typical bully fashion, Applicant was coerced into extending the deadline. There were never any settlement talks at all during this extension period, but instead, Opposer took the time to strategize and prepare a thorough and intimidating formal Opposition.

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Opposer:

On December 1, 2008, Applicant declined a proposal from Opposer to settle the Opposition for \$2,500. *See* Attachment 6.

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The Opposer's settlement offer was presented a full 7 months after the Opposition was filed, and barely represented the amount even invested by Applicant just in applying for the GOOTUBE.COM mark. It clearly showed that the Opposer was more interested in using scare tactics rather than to present a legitimate "amicable" settlement offer.
.....

Opposer:

Applicant made no counteroffer at the time or in the three months thereafter. During a March 17, 2009 conversation between Applicant and an in-house attorney at Opposer, Applicant represented that he would shortly thereafter make a concrete settlement proposal. Thus, between approximately March and August 2009, the parties stipulated to several extensions of the discovery deadlines so that they could discuss possible settlement of this matter. *See* Attachment 7. Applicant himself never made the promised concrete settlement proposal.

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Applicant was aware that Opposer would likely use any counteroffer to claim bad faith or intentions of extortion, and therefore was very hesitant to present one, even at the Opposer's persistent request. The claim made by Opposer that Applicant promised to make a concrete settlement proposal is blatantly false. The Opposer's in-house trademark attorney suggested that Applicant cancel the federal registration application in exchange for a sum that would cover any and all fees associated with it, together with all attorney fees up to that point. Applicant distinctly expressed that he was not interested in a monetary settlement as a goal, and never once suggested that he would present a concrete proposal.

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Opposer:

On September 23, 2009, Opposer timely served Opposer's First Set of Requests for Production of Documents and Things and Opposer's First Set of Interrogatories (collectively, "Opposer's Discovery Requests") on Applicant via first-class mail addressed to Applicant's counsel. *See* Attachment 8. Under TBMP 403.03, Applicant's responses to Opposer's Discovery Requests were due on October 28, 2009. Applicant failed to respond to Opposer's Discovery Requests by the October 28, 2009 deadline.

On November 2, 2009, Opposer notified Applicant that his discovery responses were delinquent and proposed a meet-and-confer to discuss the matter. *See* Attachment 9.

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Precisely during the time that Opposer filed Discovery Requests, Applicant was involved in family law conflict which, regrettably, took precedent over these trademark opposition matters. Applicant's

attorney did, however, respond prior to the October 28, 2009 deadline, by requesting an extension for the Requests for Production and Interrogatories, due to these extenuating circumstances. There were two such requests, one on October 23, 2009 and another on October 27, 2009. Even in light of the fact that the parties have agreed to a multitude of extensions to the benefit of the Opposer, the Opposer denied Applicant's requests for extension, and further, delayed response until the date of the deadline, knowing that the Applicant would be completely over a barrel at that point. (See Opposer's MFS Attachment 9)

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Opposer:

Attachment 9. On November 5, 2009, Applicant requested a telephonic conference on November 6, but provided no further substantive information or explanations. *See* Attachment 10. On November 6, 2009, and as requested by Applicant's November 5 email, Opposer left a voicemail message for Applicant to discuss this matter. On November 9, 2009, Opposer sent Applicant yet another email seeking to confer about the delinquent discovery responses. *See* Attachment 11. As of this filing, Applicant has not returned the call or responded regarding the delinquent discovery responses.

On November 18, 2009, Opposer filed a Motion to Compel Discovery with the Board, requesting that the Board compel Applicant to file responses to Opposer's Discovery Requests. *See* Attachment 12. Applicant did not oppose or otherwise respond to this motion. On November 25, 2009, Applicant's attorney proposed to settle the opposition for \$90,000, a figure thirty-six (36) times the settlement figure originally proposed by Opposer. Opposer acknowledged the offer. *See* Attachment 13.

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Applicant never had any knowledge of any miscommunication or lack of response to the Opposer by Applicant's attorney between the correspondence of November 5, 2009 and the Opposer's Motion to Compel of November 18, 2009. One week later, Applicant reluctantly, but finally, presented a settlement proposal in lieu of response to this motion, in hopes of alleviating the burden that the Opposition was adding to his personal stress. The Opposer attempts to discount Applicant's offer as nearly absurd, by comparing it as a multiple of Opposer's initial low-ball settlement offer. Considering the fact that the figure is likely not much more than a week's salary of the four (4) attorneys whom have

represented the Opposer in this case, the attempt to undermine Applicant's good faith offer is certainly out of order.

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Opposer:

On December 30, 2009, the Board issued an Order granting Opposer's Motion to Compel Discovery. Pursuant to the Order, Applicant was given thirty (30) days – by January 29, 2010 – to serve full and complete responses to Opposer's Discovery Requests. *See* Attachment 14. Applicant failed to serve upon Opposer any responses to Opposer's Discovery Requests by the Board-imposed deadline, and has yet to serve upon Opposer any responses. Indeed, notwithstanding Opposer's efforts and the Board activity, Applicant has not had any communications of any kind with Opposer or the Board for almost 3 months. In fact, Applicant's last communication with Opposer was his attorney's November 25, 2009 email—made after Opposer's attempts to confer about Applicant's delinquent discovery responses and after the filing of Opposer's Motion to Compel Discovery—an email which did not acknowledge the delinquent discovery responses, and which merely proposed an unacceptable settlement agreement. *See* Attachment 13.

.....
Whereas Applicant has had extremely limited contact with Applicant's attorney since December 2009, whereas his attorney of record has withdrawn, whereas Applicant cannot afford proper representation, and whereas Applicant has endured extraordinary obstacles in his personal life, the Opposer is in a position of extreme prejudice and advantage, notwithstanding the obvious disproportion. The Opposer has continually represented that there was genuine interest in an "amiable" settlement since the Opposition date three (3) years ago, yet has refused to try to actually negotiate one. Once the Applicant was against the wall and finally pressured into proposing a counteroffer, the Opposer simply balked at it and used it against him as expected.
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SUMMARY

On April 23, 2010, Applicant filed a paper which served to indicate that Applicant would be representing himself. This paper also serves as a more detailed background in response to the Opposer's Motion for Sanctions and is included herewith for review (*See Attachment 3*).

ARGUMENT

The Applicant's trademark application was protective in nature and had absolutely nothing to do with "extracting a windfall settlement from Opposer." On the contrary, it was to create distance between Applicant and Opposer, since Opposer had clearly recognized the new association with the term GOOTUBE by the "popular press" as stated in Opposer's previous motions. Applicant feels that the lost business opportunity is immeasurable in the context of his current circumstances and future livelihood, and that his settlement offer was far beyond conservative. Also, Applicant feels he was completely just in hoping for a domain name sale in the midst of media fervor and interested potential buyers, and that Opposer's assertion that Applicant has used the domain to host pornography-related sites is not only misleading, but demonstrates Opposer's predatory attitude. Opposer has had an entire segment of its own business dedicated to hosting parked domain pages and has deliberately insulted Applicant's intentions. Further, Opposer's accusations of bad faith are directly contrary to what was stated during the phone conversation with Opposer's in-house trademark attorney on March 17, 2009, and Applicant's alleged "dilatatory approach" to this Opposition has been no more dilatatory than that of Opposer during 2007 and 2008. There has been no willful noncompliance and there should certainly not be a judgment for the Opposer in "furtherance of efficiencies."

Sanctions are not warranted because there is no evidence of bad faith whatsoever by Applicant, and Applicant's failure to comply is due to both extenuating circumstances and the Opposer's unwillingness to negotiate in good faith. On the other hand, the Opposer's obvious procedural advantage and attempts to grossly mislead the Board as to the nature of Applicant's trademark intentions should warrant that the Applicant receive some degree of leniency, or that the Opposition be terminated.

Very Humbly and Respectfully submitted,

Eric Watson

410 45th ST SW A
Everett WA 98203
(425) 344-5850

Dated: June 23, 2010

I hereby certify that this Response is being deposited with FedEx and addressed to counsel for Opposer:

William C. Rava/Richard R. Ronald
Perkins Coie LLP
1201 3rd Avenue, 40th Floor
Seattle WA 98101-3099

ATTACHMENT 1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

GOOGLE INC.,

Opposer,

v.

Eric Watson,

Applicant.

Motion for Sanctions

Opposition No.: 91183905

Pursuant to 37 C.F.R. § 2.120(g), TBMP § 527.01, TBMP § 527.03 and Fed. R. Civ. P. 37(b)(2), Google Inc. ("Opposer") brings this motion for sanctions against Applicant Eric Watson ("Applicant"). Specifically, as discussed in more detail below, Opposer requests that the Board enter judgment in favor of Opposer based on Applicant's failure to comply with his discovery obligations, Applicant's failure to obey a Board order compelling compliance with his discovery obligations, and Applicant's evident bad faith and lack of interest in genuinely prosecuting this matter.

Procedural Background¹

On October 9, 2006, Opposer announced it would acquire YouTube. *See* Attachment 1. On October 12, 2006—three days following Opposer's announcement—Applicant applied for federal registration for the mark GOOTUBE.COM. On October 16, 2006, when asked about the GOOTUBE.COM mark and domain name, Applicant's e-mailed response was quoted in an on-line interview as stating "Hell yeah i [sic] want to sell . . . If Google, Yahoo!, MSN, or some other forward-thinking investor wanted to dig deep enough and purchase this name to hedge their bet, i [sic] would certainly consider

¹ Portions of this procedural background were recited in Opposer's Motion to Compel Discovery Answers (Dkt. #18) and are repeated here for the convenience of the Board.

offers. I am also considering putting the name up for sale at live auction towards the end of the month, in hopes of a record-high sale." *See* Attachment 2. Applicant has also admitted he was aware of Opposer's YOUTUBE and GOOGLE marks prior to his adoption of and application for the GOOTUBE.COM mark. *See* Attachment 3, Requests Nos. 33-36.²

While Applicant's application for the GOOTUBE.COM covers "hosting of digital media content for infants, children, and the parents of small children" services in Class 42, Applicant has admitted he has never used the mark for such services or in commerce at all. *See* Applicant's Answer to Amended Opposition of July 25, 2008 at No. 18 (Dkt. #7); *see also* Attachment 3, Requests Nos. 1, 5, and 9. Contrary to Applicant's assertions that he intended to use the GOOTUBE.COM mark in connection with digital content for children and parents, Applicant has maintained—and currently maintains—a pay-per-click site at the www.gootube.com domain. *See* Attachment 4. Notably, a number of the links at Applicant's site are for adult- and pornography-related sites, while family-oriented content is noticeably lacking. *See* Attachment 4.

On March 3, 2008, Opposer contacted Applicant's counsel, Mike Hughes, regarding Opposer's intent to oppose Application Serial No. 77020099 for GOOTUBE.COM in Class 42 (the "GOOTUBE Application") and proposed that the parties work towards an amiable settlement. *See* Attachment 5. In light of the parties' settlement negotiations, at the parties' request, the Board extended Opposer's deadline to file an opposition until May 5, 2008. The parties failed to reach a settlement prior to the May 5, 2008 opposition deadline. Opposer timely filed this Opposition on May 5, 2008 and filed an Amended Opposition on July 25, 2008 (Dkt. # 5). Applicant filed an Answer to the Amended Opposition on August 28, 2008 (Dkt. #7).

² These facts are deemed admitted by Applicant by virtue of his failure to file a response to Opposer's First Set of Requests for Admission (Nos. 1-37). F.R.C.P. 36(a)(3); *see* Attachment 3, Requests Nos. 28-32.

On December 1, 2008, Applicant declined a proposal from Opposer to settle the Opposition for \$2,500. *See* Attachment 6. Applicant made no counteroffer at the time or in the three months thereafter. During a March 17, 2009 conversation between Applicant and an in-house attorney at Opposer, Applicant represented that he would shortly thereafter make a concrete settlement proposal. Thus, between approximately March and August 2009, the parties stipulated to several extensions of the discovery deadlines so that they could discuss possible settlement of this matter. *See* Attachment 7. Applicant himself never made the promised concrete settlement proposal.

On September 23, 2009, Opposer timely served Opposer's First Set of Requests for Production of Documents and Things and Opposer's First Set of Interrogatories (collectively, "Opposer's Discovery Requests") on Applicant via first-class mail addressed to Applicant's counsel. *See* Attachment 8. Under TBMP 403.03, Applicant's responses to Opposer's Discovery Requests were due on October 28, 2009. Applicant failed to respond to Opposer's Discovery Requests by the October 28, 2009 deadline.

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opposition for \$90,000, a figure thirty-six (36) times the settlement figure originally proposed by Opposer. Opposer acknowledged the offer. *See* Attachment 13.

On December 30, 2009, the Board issued an Order granting Opposer's Motion to Compel Discovery. Pursuant to the Order, Applicant was given thirty (30) days – by January 29, 2010 – to serve full and complete responses to Opposer's Discovery Requests. *See* Attachment 14. Applicant failed to serve upon Opposer any responses to Opposer's Discovery Requests by the Board-imposed deadline, and has yet to serve upon Opposer any responses. Indeed, notwithstanding Opposer's efforts and the Board activity, Applicant has not had any communications of any kind with Opposer or the Board for almost 3 months. In fact, Applicant's last communication with Opposer was his attorney's November 25, 2009 email—made after Opposer's attempts to confer about Applicant's delinquent discovery responses and after the filing of Opposer's Motion to Compel Discovery—an email which did not acknowledge the delinquent discovery responses, and which merely proposed an unacceptable settlement agreement. *See* Attachment 13.

ARGUMENT

Applicant's failure to serve responses to Opposer's Discovery Requests is a clear violation of the Board's December 30, 2009 order. The law is clear that if a party fails to comply with an order of the Board relating to discovery, including an order compelling discovery, the Board may order appropriate sanctions as defined in 37 C.F.R. 2.120(g)(1) and Fed.R.Civ.P. 37(b)(2), including entry of judgment. *MHW Ltd. v. Simex, Aussenhandels-gesellschaft Savelsberg KG*, 59 U.S.P.Q. 2d 1477; TBMP Section 527.01. Here, because Applicant failed to comply with his discovery obligations then failed to comply with an order compelling discovery, sanctions are warranted.

Moreover, the facts and procedural history of this matter, and especially the recent history, clearly demonstrate that Applicant applied for the GOOTUBE.COM mark in bad faith and has not sincerely pursued this matter since. Applicant has admitted (1) he was aware of Opposer's GOOGLE and YOUTUBE marks at the time of his application; (2) that the popular press was referring to Opposer as GOOTUBE at the time of his application; and (3) that he has not used the mark in connection for the purported child media-related services covered by the application. Further, Applicant is on record as stating he hoped for a "record-high sale" of the gootube.com domain and has used the site in the meantime to host click-through ads, many related to adult- and pornography-related sites.

To the extent Applicant has even engaged in this matter, it has been for the purpose of delaying progress. Among other things, Applicant has repeatedly sought or necessitated various extensions; failed to respond to email and return phone calls; failed to oppose or respond to motions; and promised but not delivered settlement proposals on a number of occasions. Applicant's November 25, 2009 settlement offer, which did not acknowledge Applicant's delinquent discovery responses, and which Applicant has not pursued, does not demonstrate Applicant's interest in this case, but rather represents both Applicant's dilatory approach to this Opposition and his goal to use the application to extract a windfall settlement from Opposer.

Considered with his willful noncompliance with the Rules and an express Board order, the only reasonable conclusion is that Applicant does not intend to genuinely defend this matter and is acting in bad faith. Under the circumstances – and in furtherance of efficiencies for the Board and the parties – the Board should now enter judgment in favor of Opposer. 37 C.F.R. § 2.120(g)(2) and TBMP §527.03.

Because this motion is potentially dispositive, Opposer requests that the case be suspended with respect to all matters not germane to the motion. 37 C.F.R. § 2.127(d).

In addition, should the Board not enter judgment in deciding this motion, Opposer requests that the remaining dates in this opposition be appropriately reset.

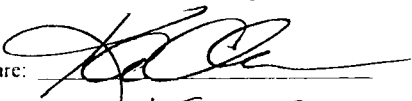
Dated: February 26, 2010

CERTIFICATE OF SERVICE

I hereby certify that this, Motion for Discovery Sanctions, is being deposited with the United States Postal Service with sufficient postage as first class mail on February 26, 2010 in an envelope addressed to counsel for Applicant: Michael F. Hughes, Hughes Law Firm, PLLC, 5160 Industrial Place #107, Ferndale, WA 98248, as well as to counsel's address as reflected in the TTABVue Record for this opposition which is: 4164 Meridian Street, Suite 302 Bellingham, WA 98226-5583.

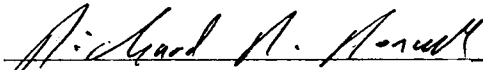
Signature: _____

Printed Name: _____


Karen Chekanian

Respectfully submitted,

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Attorneys for Google Inc.

ATTACHMENT 1

Google

Press Center

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Google To Acquire YouTube for \$1.65 Billion in Stock

Combination Will Create New Opportunities for Users and Content Owners Everywhere

MOUNTAIN VIEW, Calif., October 9, 2006 - Google Inc. (NASDAQ: GOOG) announced today that it has agreed to acquire YouTube, the consumer media company for people to watch and share original videos through a Web experience for \$1.65 billion in a stock-for-stock transaction. Following the acquisition, YouTube will operate independently to preserve its successful brand and passionate community.

The acquisition combines one of the largest and fastest growing online video entertainment communities with Google's expertise in organizing information and creating new models for advertising on the Internet. The combined companies will focus on providing a better, more comprehensive experience for users interested in uploading, watching and sharing videos, and will offer new opportunities for professional content owners to distribute their work to reach a vast new audience.

"The YouTube team has built an exciting and powerful media platform that complements Google's mission to organize the world's information and make it universally accessible and useful," said Eric Schmidt, Chief Executive Officer of Google. "Our companies share similar values; we both always put our users first and are committed to innovating to improve their experience. Together, we are natural partners to offer a compelling media entertainment service to users, content owners and advertisers."

"Our community has played a vital role in changing the way that people consume media, creating a new clip culture. By joining forces with Google, we can benefit from its global reach and technology leadership to deliver a more comprehensive entertainment experience for our users and to create new opportunities for our partners," said Chad Hurley, CEO and Co-Founder of YouTube. "I'm confident that with this partnership we'll have the flexibility and resources needed to pursue our goal of building the next-generation platform for serving media worldwide."

When the acquisition is complete, YouTube will retain its distinct brand identity, strengthening and complementing Google's own fast-growing video business. YouTube will continue to be based in San Bruno, CA, and all YouTube employees will remain with the company. With Google's technology, advertiser relationships and global reach, YouTube will continue to build on its success as one of the world's most popular services for video entertainment.

The number of Google shares to be issued in the transaction will be determined based on the 30-

day average closing price two trading days prior to the completion of the acquisition. Both companies have approved the transaction, which is subject to customary closing conditions and is expected to close in the fourth quarter of 2006.

Webcast and Conference Call Information

The company will host a conference call and webcast at 1:30 p.m. Pacific Time (4:30 p.m. Eastern Time) today to discuss the acquisition. To access the conference call, please dial 800-289-0572 domestic and 913-981-5543 internationally. A replay of the call will be available until midnight Monday, October 16 at 888-203-1112 domestically and 719-457-0820 internationally. Confirmation code for the replay is 2260624.

A live audio webcast of the conference call will be available at <http://investor.google.com/webcast.html>.

About Google Inc.

Google's innovative search technologies connect millions of people around the world with information every day. Founded in 1998 by Stanford Ph.D. students Larry Page and Sergey Brin, Google today is a top web property in all major global markets. Google's targeted advertising program provides businesses of all sizes with measurable results, while enhancing the overall web experience for users. Google is headquartered in Silicon Valley with offices throughout the Americas, Europe and Asia. For more information, visit www.google.com.

About YouTube

Founded in February 2005, YouTube is a consumer media company for people to watch and share original videos worldwide through a Web experience. YouTube allows people to easily upload and share video clips on www.YouTube.com and across the Internet through websites, blogs, and e-mail. YouTube currently delivers more than 100 million video views every day with 65,000 new videos uploaded daily and it has quickly become the leading destination on the Internet for video entertainment.

Caution Concerning Forward-Looking Statements

This document includes certain forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995, including statements regarding Google's and YouTube's ability to improve their services, create new business models and content-owner opportunities, integration plans, the expected timing for the closing of the acquisition and the plans to operate YouTube independently. These statements are based on the current expectations or beliefs of management of Google Inc., and are subject to uncertainty and changes in circumstances. Actual results may vary materially from those expressed or implied by the statements herein due to (1) changes in economic, business, competitive, technological and/or regulatory factors, (2) failure to receive regulatory approval for the acquisition, (3) failure to retain the levels of traffic on the YouTube site, (4) failure to compete successfully in this highly competitive and rapidly changing

marketplace, (5) failure to retain key employees, (6) other factors affecting the operation of the respective businesses of Google and YouTube, and (7) the failure of YouTube and Google to work together effectively. More detailed information about these factors may be found in filings by Google, as applicable, with the Securities and Exchange Commission, including their respective most recent Annual Report on Form 10-K and Quarterly Report on Form 10-Q. Google is under no obligation to, and expressly disclaims any such obligation to, update or alter their respective forward-looking statements, whether as a result of new information, future events, or otherwise.

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Maria Shim
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YouTube Media:
Julie Supan
650.685.6401
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ATTACHMENT 2

IP Telephony

Russell Shaw

Make the most of your biggest asset — your earning power

**Go to MoneyWatch.com,
where life and money intersect.**

**Click to Expand
and learn more**

October 16th, 2006

EXCLUSIVE: GooTube domain owner speaks to me, and I'm impressed

Posted by Russell Shaw @ 8:01 am

[illegible]

Last week, as the "GooTube" moniker began to be applied to Google's acquisition of YouTube, I posted that there actually is a "GooTube."

Founded a year ago by Internet marketer Eric Watson, it provides a search engine for glue-related tube type products. Keep in mind that Eric secured the gootube domain a year ago, before hardly anyone had heard of YouTube and probably no one ever thought the video site would be so popular that it would be courted by Google and others.

Given the GooTube meme, I was curious to find out what Watson thought about this.

Now, I know, for Eric emailed me back the other day.

"Hell yeah I want to sell! My original concept when I bought the domain a year or so ago, was similar in scope, but of course I did not, and still do not, have the resources or finances to do what I would like with it," he writes.

"If Google, Yahoo!, MSN, or some other forward-thinking investor wanted to dig deep enough and purchase this name to hedge their bet, I would certainly consider offers. I am also considering putting the name up for sale at live auction towards the end of the month, in hopes of a record-high sale."

Eric also notes that the parked page which advertises "tube products" is just a way to make a few pennies while he figures out where he is going with all this.

But guess what. Eric has some well-informed opinions on this Google YouTube deal. I suppose his thoughts are as valid as anyone's, and more cogent than many:

"The 'Big Three' have so saturated the media, that they have all but lost the ability to consistently draw the YouTube demographic," he points out in his email to me. "Let's face it, there is only one way to reach so many people or potential 'content-consumers' that fast. It is through viral marketing and social networking, which starts and ends with the

consumer. The giants are learning that content and advertising cannot be force-fed, and that the only way to accomplish these goals is to provide the vehicle (e.g. YouTube, Myspace) so that the consumers can do it themselves, and on their own terms.

"When you have deep pockets, why re-invent the wheel?" he asks. "Google Video will always be just another service provided by one of the 'giants,' and simply by default could not be as cool as something created by and ultimately for the demographic they are trying to reach. This is not the first, nor will it be the last buyout from Google."

GooTube or no, Eric has some valid points.

Russell Shaw is an enterprise computing journalist, analyst and author based in Portland, Oregon. See his full profile and disclosure of his industry affiliations.

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ATTACHMENT 3

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

GOOGLE INC.,

Opposer,

v.

Eric Watson,

Applicant.

Opposition No.: 91183905

OPPOSER'S FIRST SET OF REQUESTS
FOR ADMISSION (NOS. 1- 37)

Application Serial No.: 77/020,099

Filing Date: October 12, 2006

Publication Date: November 6, 2007

TO: Eric Watson ("Applicant")

Opposer Google Inc. ("Opposer"), through its counsel Perkins Coie LLP, hereby serves Opposer's First Set Of Requests For Admission (each, a "Request" and together, the "Requests"). These Requests incorporate the Instructions and Definitions from Opposer's First Set of Interrogatories.

Requests for Admission

1. Admit that You have never provided Your Services in interstate commerce under the GOOTUBE Mark.
2. Admit that You have provided Your Services in interstate commerce under the GOOTUBE Mark.
3. Admit that You have never provided any goods in interstate commerce under the GOOTUBE Mark.
4. Admit that You have provided any goods in interstate commerce under the GOOTUBE Mark.
5. Admit that You have never provided services in interstate commerce under the GOOTUBE Mark.

6. Admit that You have provided services in interstate commerce under the GOOTUBE Mark.
7. Admit that You have never provided any goods under the GOOTUBE Mark.
8. Admit that You have provided goods under the GOOTUBE Mark.
9. Admit that You have never provided services under the GOOTUBE Mark.
10. Admit that You have provided services under the GOOTUBE Mark.
11. Admit that You took no steps toward offering Your Services under the GOOTUBE Mark prior to filing Applicant's Application.
12. Admit that You have taken no steps toward offering Your Services under the GOOTUBE Mark since filing Applicant's Application.
13. Admit that Your Services are or will be provided, at least in part, over the Internet.
14. Admit that Your Services are or will be provided, at least in part, over the Internet via the website at <http://www.gootube.com>.
15. Admit that Opposer's YOUTUBE Goods and Services are provided, at least in part, over the Internet.
16. Admit that Opposer's YOUTUBE Goods and Services are provided, at least in part, over the Internet at Opposer's YouTube Website.
17. Admit that Opposer's GOOGLE Goods and Services are provided, at least in part, over the Internet.
18. Admit that Opposer's GOOGLE Goods and Services are provided, at least in part, over the Internet at Opposer's Google Website.
19. Admit that Your Services include hosting digital media on the Internet.
20. Admit that Opposer's YOUTUBE Goods and Services include hosting digital media on the Internet.
21. Admit that Opposer's GOOGLE Goods and Services include hosting digital media on the Internet.

22. Admit that individuals looking for online digital content are among the actual or potential customers of Your Services under the GOOTUBE Mark.

23. Admit that individuals looking for online digital content are among the actual or potential customers of Opposer's GOOGLE Goods and Services under Opposer's GOOGLE Mark.

24. Admit that individuals looking for online digital content are among the actual or potential customers of Opposer's YOUTUBE Goods and Services under Opposer's YOUTUBE Marks.

25. Admit that Your Services are encompassed by the YOUTUBE Services.

26. Admit that Your Services are encompassed by the GOOGLE Services.

27. Admit that the letters "goo" have no meaning related to Your Services.

28. Admit that You were aware of the YouTube Purchase before Applicant's Application was filed on October 12, 2006.

29. Admit that the YouTube Purchase was announced on October 9, 2006, as shown in Exhibit D of the Amended Notice of Opposition.

30. Admit that Exhibit E of the Amended Notice of Opposition includes press and other media accounts referring to Opposer as "GooTube."

31. Admit that the document attached hereto as Exhibit 1 is a true, accurate, and complete copy of the web page found at <http://blogs.zdnet.com/ip-telephony/?p=1274>.

32. Admit that You made the statements attributed to you in Exhibit 1.

33. Admit You were aware of Opposer's YOUTUBE Marks, Opposer's YOUTUBE Applications and/or the website at <http://www.youtube.com> prior to adopting the GOOTUBE Mark.

34. Admit You were aware of Opposer's YOUTUBE Marks, Opposer's YOUTUBE Applications and/or the website at <http://www.youtube.com> prior to filing for Applicant's Application.

35. Admit You were aware of Opposer's GOOGLE Mark, Opposer's GOOGLE Registrations, Opposer's GOOGLE Applications and/or the website at <http://www.google.com> prior to adopting the GOOTUBE Mark.

36. Admit You were aware of Opposer's GOOGLE Mark, Opposer's GOOGLE Registrations, Opposer's GOOGLE Applications and/or the website at <http://www.google.com> prior to filing for Applicant's Application.

37. Admit that all documents and things produced in connection with Opposer's First Set of Requests for Production of Documents and Things are true, accurate, and complete copies of those documents and things.

DATED: September 23, 2009.


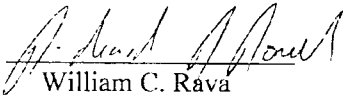
<p>CERTIFICATE OF SERVICE</p> <p>I hereby certify that this, OPPOSER'S FIRST SET OF REQUESTS FOR ADMISSION, is being deposited with the United States Postal Service with sufficient postage as first class mail on September <u>23</u> 2009 in an envelope addressed to Applicant's counsel: Michael F. Hughes, Hughes Law Firm PLLC, 4164 Meridian Street, Suite 302, Bellingham, Washington 98266-5583.</p> <p>Signature: </p> <p>Printed Name: <u>Karen Choksanian</u></p>	<p>PERKINS COIE LLP</p> <p>By  William C. Rava Richard R. Ronald Perkins Coie LLP 1201 Third Avenue, 40th Floor Seattle, Washington 98101-3099 (206) 359-3036 Attorneys for Google Inc.</p>
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EXHIBIT 1

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Russell Shaw

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October 16th, 2006

EXCLUSIVE: GooTube domain owner speaks to me, and I'm impressed

Posted by Russell Shaw @ 8:01 am

Categories: [General](#), [Google](#), [News](#), [YouTube](#)

Tags:



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Last week, as the "GooTube" moniker began to be applied to Google's acquisition of YouTube, I posted that there actually is a "GooTube."

Founded a year ago by Internet marketer Eric Watson, it provides a search engine for glue-related tube type products. Keep in mind that Eric secured the gootube domain a year ago, before hardly anyone had heard of YouTube and probably no one ever thought the video site would be so popular that it would be courted by Google and others.

Given the GooTube meme, I was curious to find out what Watson thought about this.

Now, I know, for Eric emailed me back the other day.

"Hell yeah i want to sell! My original concept when I bought the domain a year or so ago, was similar in scope, but of course I did not, and still do not, have the resources or finances to do what i would like with it," he writes.

"If Google, Yahoo!, MSN, or some other forward-thinking investor wanted to dig deep enough and purchase this name to hedge their bet, i would certainly consider offers. I am also considering putting the name up for sale at live auction towards the end of the month, in hopes of a record-high sale."

Eric also notes that the parked page which advertises "tube products" is just a way to make a few pennies while he figures out where he is going with all this.

But guess what. Eric has some well-informed opinions on this Google YouTube deal. I suppose his thoughts are as valid as anyone's, and more cogent than many:

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"The 'Big Three' have so saturated the media, that they have all but lost the ability to consistently draw the YouTube demographic," he points out in his email to me. "Let's face it, there is only one way to reach so many people or potential 'content-consumers' that fast. It is through viral marketing and social networking, which starts and ends with the consumer. The giants are learning that content and advertising cannot be force-fed, and that the only way to accomplish these goals is to provide the vehicle (e.g. YouTube, Myspace) so that the consumers can do it themselves, and on their own terms."

"When you have deep pockets, why re-invent the wheel?," he asks. "Google Video will always be just another service provided by one of the 'giants,'" and simply by default could not be as cool as something created by and ultimately for, the demographic they are trying to reach. This is not the first; nor will it be the last buyout from Google."

GooTube or no, Eric has some valid points.

Russell Shaw is an enterprise computing journalist, analyst and author based in Portland, Oregon. See his full profile and disclosure of his industry affiliations.

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
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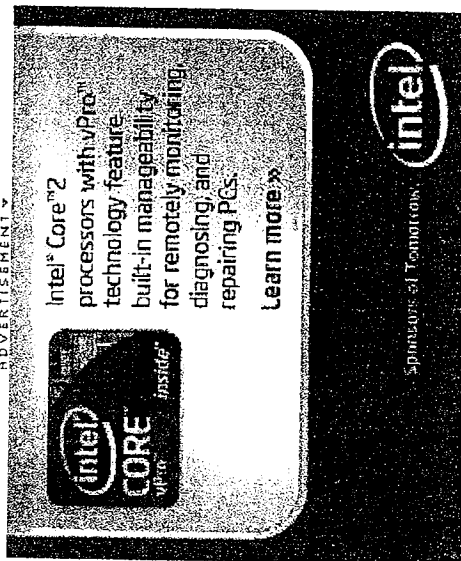
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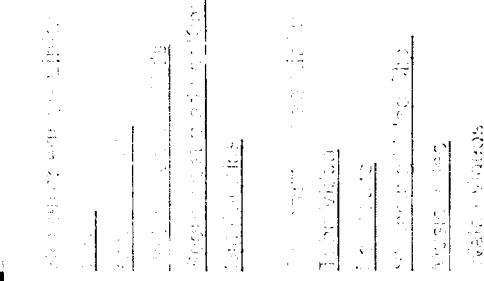
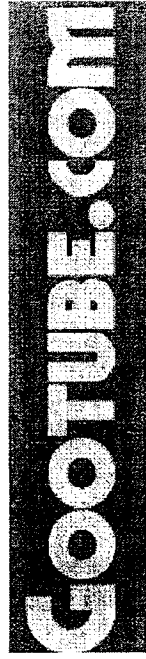
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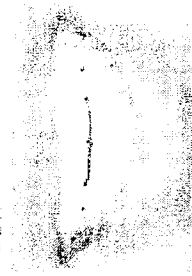
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ATTACHMENT 5

Ronald, Richard R. (Perkins Coie)

From: Vana, James L. (Perkins Coie)
Sent: Monday, March 03, 2008 4:37 PM
To: 'mhughes@inventionlaw.com'
Cc: Ronald, Richard R. (Perkins Coie)
Subject: FW: DRAFT: GOOTUBE.COM: Consent to 60 Day Extension of Time to Oppose

Mike -

I am following up on our conversation this afternoon, providing my contact information (below) and confirming your consent to file a 60-day extension of the current March 5, 2008 opposition deadline for your client's GOOTUBE.COM trademark application (Serial No. 77020099).

As I mentioned during our conversation, Google would prefer to explore an amicable resolution before filing a formal opposition. I look forward to hearing from you once you have discussed the issue with your client.

Jim Vana
Perkins Coie LLP
1201 Third Avenue, Suite 4800
Seattle, WA 98101
Direct: (206) 359-3036
Fax (206) 359-4036
www.perkinscoie.com

ATTACHMENT 6

Ronald, Richard R. (Perkins Coie)

From: Mike Hughes [mhughes@inventionlaw.com]

Sent: Monday, December 01, 2008 2:22 PM

To: Ronald, Richard R. (Perkins Coie)

Subject: gootube matter

Hello Rich,

I spoke with my client and he respectfully declines the offer from your client of \$2,500.00 to terminate the opposition and cancel his federal registration application.

Talk to you soon.

*

Mike Hughes
Patent Attorney
Mechanical Engineer B.S.
Hughes Law Firm, PLLC
Pacific Meridian Plaza
4164 Meridian Street, Suite 302
Bellingham, WA 98226
(360) 647-1296
fax (360) 671-2489
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ATTACHMENT 7

Ronald, Richard R. (Perkins Coie)

From: Mike Hughes [mhughes@inventionlaw.com]

Sent: Wednesday, March 18, 2009 10:57 AM

To: Ronald, Richard R. (Perkins Coie)

Subject: Re: GOOTUBE.COM - Request for Extension of Discovery Deadlines (Our Ref. 41063-7016.0000.PX001)

I consent to the extension. Thank you Richard.

Mike Hughes
Patent Attorney
Mechanical Engineer B.S.
Hughes Law Firm, PLLC
Pacific Meridian Plaza
4164 Meridian Street, Suite 302
Bellingham, WA 98226
(360) 647-1296
fax (360) 671-2489
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----- Original Message -----

From: Ronald, Richard R. (Perkins Coie)

To: Mike Hughes

Cc: Rava, William C. (Perkins Coie) ; Edwards, Aimee J. (Perkins Coie)

Sent: Wednesday, March 18, 2009 8:39 AM

Subject: GOOTUBE.COM - Request for Extension of Discovery Deadlines (Our Ref. 41063-7016.0000.PX001)

Dear Mike:

Good afternoon. It is my understanding that our respective clients spoke yesterday morning and that there still appears to be some room to arrive at a settlement. We look forward to hearing your client's proposal. In the meantime, we suggest obtaining a 60 day extension of the **March 27, 2008** close of discovery to give us more room to negotiate. Please let me know if I have your consent and if I can serve the request by email.

Sincerely,

-Richard

Richard R. Ronald | Perkins Coie LLP

1401 Third Avenue, Suite 4800

Seattle, WA 98101-3098

☎: 206.359.8250

✉: 206.359.9755

2/23/2010

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2/23/2010

Ronald, Richard R. (Perkins Coie)

From: Mike Hughes [mhughes@inventionlaw.com]
Sent: Friday, May 15, 2009 2:58 PM
To: Ronald, Richard R. (Perkins Coie)
Cc: Eric Watson
Subject: Re: GOOTUBE.COM Opposition (41063-7016.0000.PX001)

Hi Richard,

I agree to the extension. Sorry for not getting back to you sooner. I will be in contact soon.

Mike Hughes
Patent Attorney
Mechanical Engineer B.S
Hughes Law Firm, PLLC
Pacific Meridian Plaza
4164 Meridian Street, Suite 302
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----- Original Message -----

From: Ronald, Richard R. (Perkins Coie)
To: Mike Hughes
Cc: Eric Watson ; Rava, William C. (Perkins Coie)
Sent: Friday, May 15, 2009 9:29 AM
Subject: RE: GOOTUBE.COM Opposition (41063-7016.0000.PX001)

Mike:

Good morning. Following up on my voicemail from earlier this week, our client remains interested in an amicable settlement to this matter and looks forward to your revised proposal. In the meantime, please advise if we can for a 30-day extension of the discovery deadline for this above-mentioned Opposition and serve the same by email. The current deadline is 5/26/09.

I look forward to hearing from you.

Sincerely,

-Richard

Richard R. Ronald | Perkins Coie LLP

2/23/2010

Perkins Coie LLP
1201 Third Avenue, Suite 3000
Seattle, WA 98101-3000
Tel: 206.369.8247
Fax: 206.369.8248
Email: ronald@perkinscoie.com

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From: Mike Hughes [mailto:mhughes@inventionlaw.com]
Sent: Thursday, April 23, 2009 12:10 PM
To: Ronald, Richard R. (Perkins Coie)
Cc: Eric Watson
Subject: Re: GOOTUBE.COM Opposition (41063-7016.0000.PX001)

Hi Ron I will call Eric and keep this plate spinning. Talk to you soon.
Mike Hughes

----- Original Message -----

From: Ronald, Richard R. (Perkins Coie)
To: Mike Hughes
Cc: Rava, William C. (Perkins Coie)
Sent: Thursday, April 23, 2009 9:49 AM
Subject: RE: GOOTUBE.COM Opposition (41063-7016.0000.PX001)

Dear Mr. Hughes:

We have yet to receive a reply from your client to our requests for further negotiations in the GOOTUBE Opposition matter. Can you please verify that your client is still interested in trying to settle this matter amiably? If your client is still interested in a settlement possibility, please provide us with a proposed settlement offer which we can take to our client for consideration.

I appreciate your attention to this matter.

Sincerely,

-Richard

Richard R. Ronald, Perkins Coie LLP
1201 Third Avenue, Suite 3000
Seattle, WA 98101-3000
Tel: 206.369.8247
Fax: 206.369.8248
Email: ronald@perkinscoie.com

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From: Ronald, Richard R. (Perkins Coie)

2/23/2010

Sent: Friday, April 17, 2009 4:05 PM
To: 'etg@cortland.com'
Cc: 'Mike Hughes'; Rava, William C. (Perkins Coie)
Subject: RE: GOOTUBE.COM Opposition (41063-7016.0000.PX001)

Dear Mr. Watson:

Good afternoon. It appears that we are still pending a response to our email below. Please do us the kindness of providing us with your new settlement proposal at your earliest convenience. I would be happy to discuss this with you and Mr. Hughes at any time.

Sincerely,

-Richard

Richard R. Ronald | Perkins Coie LLP
1201 Third Avenue, Suite 4800
Seattle, WA 98101-3095
T: 206.461.1000
F: 206.461.1001
E: ronald@perkinscoie.com

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From: Ronald, Richard R. (Perkins Coie)
Sent: Monday, April 13, 2009 9:56 AM
To: 'etg@cortland.com'
Cc: 'Mike Hughes'; Rava, William C. (Perkins Coie)
Subject: GOOTUBE.COM Opposition (41063-7016.0000.PX001)

Dear Mr. Watson:

Good morning. I am wondering if you have had the opportunity to formulate a new settlement proposal based on your conversation with Ms. Daniel Varda. Currently, we have a discovery deadline of **May 26, 2009**. If possible, we would like to arrive at a resolution to this matter before having to serve discovery.

I look forward to your response.

Sincerely,

-Richard

Richard R. Ronald | Perkins Coie LLP
1201 Third Avenue, Suite 4800
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* * * * *

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* * * * *

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Ronald, Richard R. (Perkins Coie)

From: Mike Hughes [mhughes@inventionlaw.com]
Sent: Tuesday, June 23, 2009 12:28 PM
To: Ronald, Richard R. (Perkins Coie)
Cc: Eric Watson
Subject: Re: GOOTUBE.COM Opposition (41063-7016.0000.PX001)

Sounds good I will circle back with Eric and we can push this forward.

Mike Hughes

----- Original Message -----

From: Ronald, Richard R. (Perkins Coie)
To: Mike Hughes
Cc: Rava, William C. (Perkins Coie)
Sent: Tuesday, June 23, 2009 11:01 AM
Subject: RE: GOOTUBE.COM Opposition (41063-7016.0000.PX001)

Dear Mike:

Based on our conversation earlier this month, I will be filing a 60-day extension of the June 25, 2009 discovery deadline for the above matter and serving you via email at the close of business today. If you have any concerns, please let me know this afternoon.

Sincerely,

-Richard

Richard R. Perkins Perkins Coie LLP
2001 First Avenue, Suite 2000
Seattle, WA 98101
P: 206.461.1000
F: 206.461.1001
E: rronald@perkinscoie.com

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From: Ronald, Richard R. (Perkins Coie)
Sent: Friday, June 19, 2009 9:37 AM
To: 'Mike Hughes'
Cc: Rava, William C. (Perkins Coie)
Subject: RE: GOOTUBE.COM Opposition (41063-7016.0000.PX001)

Mike:

Thanks again for speaking with me last week. I look forward to hearing from you soon regarding your client's settlement proposal. In light of the upcoming discovery deadline, I want to confirm we have your consent to a 60-day extension to the discovery deadline and that I can serve you by email.

Sincerely,

2/23/2010

-Richard

Perkins Coie LLP

1000 1st Avenue

Seattle, WA 98101

Phone: 206.461.1000

Fax: 206.461.1001

www.perkinscoie.com

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From: Mike Hughes [mailto:mhughes@inventionlaw.com]
Sent: Friday, May 15, 2009 2:58 PM
To: Ronald, Richard R. (Perkins Coie)
Cc: Eric Watson
Subject: Re: GOOTUBE.COM Opposition (41063-7016.0000.PX001)

Hi Richard,

I agree to the extension. Sorry for not getting back to you sooner. I will be in contact soon.

Mike Hughes
Patent Attorney
Mechanical Engineer B.S.
Hughes Law Firm, PLLC
Pacific Meridian Plaza
4164 Meridian Street, Suite 302
Bellingham, WA 98226
(360) 647-1296
fax (360) 671-2489
www.inventionlaw.com

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----- Original Message -----

From: Ronald, Richard R. (Perkins Coie)
To: Mike Hughes
Cc: Eric Watson ; Rava, William C. (Perkins Coie)
Sent: Friday, May 15, 2009 9:29 AM
Subject: RE: GOOTUBE.COM Opposition (41063-7016.0000.PX001)

Mike:

2/23/2010

Good morning. Following up on my voicemail from earlier this week, our client remains interested in an amicable settlement to this matter and looks forward to your revised proposal. In the meantime, please advise if we can for a 30-day extension of the discovery deadline for this above-mentioned Opposition and serve the same by email. The current deadline is 5/26/09.

I look forward to hearing from you.

Sincerely,

-Richard

Richard R. Ronald | Perkins Coie LLP

1201 Third Avenue, Suite 4800

Seattle, WA 98101

Phone: 206.461.1000

Fax: 206.461.1001

perkinscoie.com

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From: Mike Hughes [mailto:mhughes@inventionlaw.com]
Sent: Thursday, April 23, 2009 12:10 PM
To: Ronald, Richard R. (Perkins Coie)
Cc: Eric Watson
Subject: Re: GOOTUBE.COM Opposition (41063-7016.0000.PX001)

Hi Ron I will call Eric and keep this plate spinning. Talk to you soon.
Mike Hughes

----- Original Message -----

From: Ronald, Richard R. (Perkins Coie)
To: Mike Hughes
Cc: Rava, William C. (Perkins Coie)
Sent: Thursday, April 23, 2009 9:49 AM
Subject: RE: GOOTUBE.COM Opposition (41063-7016.0000.PX001)

Dear Mr. Hughes,

We have yet to receive a reply from your client to our requests for further negotiations in the GOOTUBE Opposition matter. Can you please verify that your client is still interested in trying to settle this matter amiably? If your client is still interested in a settlement possibility, please provide us with a proposed settlement offer which we can take to our client for consideration.

I appreciate your attention to this matter.

Sincerely,

-Richard

Richard R. Ronald | Perkins Coie LLP
1201 Third Avenue, Suite 4800

Perkins Coie LLP
1000 1st Avenue
Portland, ME 04102
Tel: 207.526.1000
Fax: 207.526.1001
www.perkinscoie.com

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From: Ronald, Richard R. (Perkins Coie)
Sent: Friday, April 17, 2009 4:05 PM
To: 'etg@cortland.com'
Cc: 'Mike Hughes'; Rava, William C. (Perkins Coie)
Subject: RE: GOOTUBE.COM Opposition (41063-7016.0000.PX001)

Dear Mr. Watson:

Good afternoon. It appears that we are still pending a response to our email below. Please do us the kindness of providing us with your new settlement proposal at your earliest convenience. I would be happy to discuss this with you and Mr. Hughes at any time.

Sincerely,

-Richard

Richard R. Ronald, Perkins Coie LLP
1000 1st Avenue
Portland, ME 04102
Tel: 207.526.1000
Fax: 207.526.1001
www.perkinscoie.com

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From: Ronald, Richard R. (Perkins Coie)
Sent: Monday, April 13, 2009 9:56 AM
To: 'etg@cortland.com'
Cc: 'Mike Hughes'; Rava, William C. (Perkins Coie)
Subject: GOOTUBE.COM Opposition (41063-7016.0000.PX001)

Dear Mr. Watson:

Good morning. I am wondering if you have had the opportunity to formulate a new settlement proposal based on your conversation with Ms. Daniel Varda. Currently, we have a discovery deadline of **May 26, 2009**. If possible, we would like to arrive at a resolution to this matter before having to serve discovery.

2/23/2010

I look forward to your response.

Sincerely,

-Richard

Richard C. Coie, LLP Perkins Coie LLP

One Penn Plaza, Suite 2000

New York, NY 10119-1000

Phone: 212.419.2000

Fax: 212.419.2001

Email: richard.coie@perkinscoie.com

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* * * * *

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* * * * *

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* * * * *

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* * * * *

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Ronald, Richard R. (Perkins Coie)

From: Mike Hughes [mailto:mhughes@inventionlaw.com]
Sent: Monday, August 17, 2009 5:11 PM
To: Ronald, Richard R. (Perkins Coie)
Subject: Re: GOOTUBE.COM Opposition (41063-7016.0000.PX001)

Yes I consent. The client and I have had a very difficult time getting in contact with one another. I have been traveling quite a bit recently.

Ronald, Richard R. (Perkins Coie) wrote:

Mike,

Please advise if we have your consent to a further 30-day extension of the discovery deadline.

Sincerely,

-Rich

Ronald, Richard R. (Perkins Coie)
 Perkins Coie LLP
 1100 15th Street, NW
 Suite 2000
 Washington, DC 20004
 Tel: 202.462.1000
 Fax: 202.462.1001
 E-mail: ronald@perkinscoie.com

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From: Ronald, Richard R. (Perkins Coie)
Sent: Tuesday, August 11, 2009 1:53 PM
To: Mike Hughes
Cc: Rava, William C. (Perkins Coie)
Subject: RE: GOOTUBE.COM Opposition (41063-7016.0000.PX001)

Dear Mike,

Good afternoon. I wanted to follow up on the status of the GOOTUBE.COM opposition. Currently, there is a deadline of August 24, 2009 for serving discovery. We would like to request your consent to another 30-day extension of the deadline, in the hope that we can reach a settlement in the near future.

Our client is eager to resolve this and looks forward to your client's settlement proposal. As you know, this matter is now more than a year and a half old and while we appreciate that you client has needed time to consider the issues, we believe there has been sufficient opportunity for deliberation. As a result, we would greatly appreciate a proposal by the end of next week.

Please feel free to call me any time to discuss this further.

Sincerely,

-Richard

Ronald, Richard R. (Perkins Coie)
 Perkins Coie LLP
 1100 15th Street, NW
 Suite 2000
 Washington, DC 20004
 Tel: 202.462.1000
 Fax: 202.462.1001
 E-mail: ronald@perkinscoie.com

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From: Mike Hughes [mailto:mhughes@inventionlaw.com]
Sent: Thursday, July 16, 2009 10:54 AM
To: Ronald, Richard R. (Perkins Coie)
Subject: Re: GOOTUBE.COM Opposition (41063-7016.0000.PX001)

Yes, I will get something Richard. thank you mh

Ronald, Richard R. (Perkins Coie) wrote:

Mike,

Good morning. Can you please update us on where we stand regarding the GOOTUBE matter? I am hoping to be able to report on recent developments to Google next week; it would be ideal if I could put your client's proposal in front of them at that time, as well.

I am happy to discuss this further at any time.

Sincerely,

-Richard

2/23/2010

Richard R. Perkins, Esq.
Perkins Coie LLP

2009-06-23 11:01 AM
Perkins Coie LLP
ronald@perkinscoie.com

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From: Mike Hughes [<mailto:mhughes@inventionlaw.com>]
Sent: Tuesday, June 23, 2009 12:28 PM
To: Ronald, Richard R. (Perkins Coie)
Cc: Eric Watson
Subject: Re: GOOTUBE.COM Opposition (41063-7016.0000.PX001)

Sounds good I will circle back with Eric and we can push this forward

Mike Hughes

----- Original Message -----

From: Ronald, Richard R. (Perkins Coie)
To: Mike Hughes
Cc: Rava, William C. (Perkins Coie)
Sent: Tuesday, June 23, 2009 11:01 AM
Subject: RE: GOOTUBE.COM Opposition (41063-7016.0000.PX001)

Dear Mike:

Based on our conversation earlier this month, I will be filing a 60-day extension of the June 26, 2009 discovery deadline for the above matter and serving you via email at the close of business today. If you have any concerns, please let me know this afternoon.

Sincerely,

-Richard

Richard R. Perkins, Esq.
Perkins Coie LLP

2009-06-23 11:01 AM
Perkins Coie LLP
ronald@perkinscoie.com

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From: Ronald, Richard R. (Perkins Coie)
Sent: Friday, June 19, 2009 9:37 AM
To: Mike Hughes
Cc: Rava, William C. (Perkins Coie)
Subject: RE: GOOTUBE.COM Opposition (41063-7016.0000.PX001)

Mike

Thanks again for speaking with me last week. I look forward to hearing from you soon regarding your client's settlement proposal. In light of the upcoming discovery deadline I want to confirm we have your consent to a 60-day extension to the discovery deadline and that I can serve you by email.

Sincerely,

-Richard

Richard R. Perkins, Esq.
Perkins Coie LLP

2009-06-23 11:01 AM
Perkins Coie LLP
ronald@perkinscoie.com

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From: Mike Hughes [<mailto:mhughes@inventionlaw.com>]
Sent: Friday, May 15, 2009 2:58 PM
To: Ronald, Richard R. (Perkins Coie)
Cc: Eric Watson
Subject: Re: GOOTUBE.COM Opposition (41063-7016.0000.PX001)

Hi Richard,

I agree to the extension. Sorry for not getting back to you sooner. I will be in contact soon.

Mike Hughes
Patent Attorney

2/23/2010

Mechanical Engineer B.S.
 Hughes Law Firm, PLLC
 Pacific Meridian Plaza
 4164 Meridian Street, Suite 202
 Bellingham, WA 98226
 (360) 647-1296
 fax (360) 671-2489
www.inventionlaw.com

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----- Original Message -----

From: Ronald, Richard R. (Perkins Core)
 To: Mike Hughes
 Cc: Eric Watson, Rava, William C. (Perkins Core)
 Sent: Friday, May 15, 2009 9:29 AM
 Subject: RE: GOOTUBE.COM Opposition (41063-7016.0000.PX001)

Mike

Good morning. Following up on my voicemail from earlier this week, our client remains interested in an amicable settlement to this matter and looks forward to your revised proposal. In the meantime, please advise if we can for a 30-day extension of the discovery deadline for this above mentioned Opposition and serve the same by email. The current deadline is 5/25/09.

I look forward to hearing from you.

Sincerely,

-Richard

Richard R. Ronald, Esq.
 Perkins Core LLP

62
 62
ronald@perkinscore.com

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From: Mike Hughes (<mailto:mhughes@inventionlaw.com>)
 Sent: Thursday, April 23, 2009 12:10 PM
 To: Ronald, Richard R. (Perkins Core)
 Cc: Eric Watson
 Subject: Re: GOOTUBE.COM Opposition (41063-7016.0000.PX001)

Hi Ron I will call Eric and keep this plate spinning. Talk to you soon
 Mike Hughes

----- Original Message -----

From: Ronald, Richard R. (Perkins Core)
 To: Mike Hughes
 Cc: Rava, William C. (Perkins Core)
 Sent: Thursday, April 23, 2009 9:49 AM
 Subject: RE: GOOTUBE.COM Opposition (41063-7016.0000.PX001)

Dear Mr. Hughes

We have yet to receive a reply from your client to our requests for further negotiations in the GOOTUBE Opposition matter. Can you please verify that your client is still interested in trying to settle this matter amicably? If your client is still interested in a settlement possibility, please provide us with a proposed settlement offer which we can take to our client for consideration.

I appreciate your attention to this matter.

Sincerely,

-Richard

Richard R. Ronald, Esq.
 Perkins Core LLP
 4164 Meridian Street, Suite 202
 Bellingham, WA 98226
 (360) 647-1296
 fax (360) 671-2489
ronald@perkinscore.com

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 From: Ronald, Richard R. (Perkins Core)

Sent: Friday, April 17, 2009 4:05 PM
 To: 'tjg@esetland.com'
 Cc: 'Mike Hughes'; Rava, William C. (Perkins Coie)
 Subject: RE: GOOTUBE.COM Opposition (41063-7016.0000.PX001)

Dear Mr. Watson:

Good afternoon. It appears that we are still pending a response to our email below. Please do us the kindness of providing us with your new settlement proposal at your earliest convenience. I would be happy to discuss this with you and Mr. Hughes at any time.

Sincerely,

-Richard

Richard R. Perkins Coie LLP
 1000 15th Street, N.W.
 Washington, D.C. 20004
 Tel: 202.462.1000
 Fax: 202.462.1001
 E-mail: richard@perkinscoie.com

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From: Ronald, Richard R. (Perkins Coie)
 Sent: Monday, April 13, 2009 9:58 AM
 To: 'tjg@esetland.com'
 Cc: 'Mike Hughes'; Rava, William C. (Perkins Coie)
 Subject: GOOTUBE.COM Opposition (41063-7016.0000.PX001)

Dear Mr. Watson:

Good morning. I am wondering if you have had the opportunity to formulate a new settlement proposal based on your conversation with Ms. Daniel Varda. Currently we have a discovery deadline of **May 26, 2009**. If possible, we would like to arrive at a resolution to this matter before having to serve discovery.

I look forward to your response.

Sincerely,

Richard

Richard R. Perkins Coie LLP
 1000 15th Street, N.W.
 Washington, D.C. 20004
 Tel: 202.462.1000
 Fax: 202.462.1001
 E-mail: richard@perkinscoie.com

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--

Mike Hughes
Patent Attorney
Mechanical Engineer R.L.
Hughes Law Firm, PLLC
5160 Industrial Place, Suite 107
Ferndale, WA 98046
(360) 647-1200
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--

Mike Hughes
Patent Attorney
Mechanical Engineer R.L.
Hughes Law Firm, PLLC
5160 Industrial Place, Suite 107
Ferndale, WA 98046
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www.hugheslaw.com

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ATTACHMENT 8

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

GOOGLE INC.,

Opposer,

v.

Eric Watson,

Applicant.

Opposition No.: 91183905

OPPOSER'S FIRST SET OF REQUESTS
FOR PRODUCTION OF DOCUMENTS AND
THINGS (NOS. 1- 34)

Application Serial No.: 77/020,099
Filing Date: October 12, 2006
Publication Date: November 6, 2007

TO: Eric Watson ("Applicant")

Opposer Google Inc. ("Opposer"), through its counsel Perkins Coie LLP, hereby serves Opposer's First Set of Requests for Production of Documents and Things (each, a "Request" and together, the "Requests"). These Requests incorporate the Instructions and Definitions from Opposer's First Set of Interrogatories.

Requests for Production

1. All documents forming the basis for each denial (not including denials based on a lack of sufficient information) in Applicant's Answer or in response to any Request for Admission, whether served previously or contemporaneously herewith.
2. Documents sufficient to fully show Your employment history over the past five years.
3. Documents sufficient to fully describe the organizational structure or reporting responsibilities of any entity which You have been employed by, served as an officer of, or served as a director of, in connection with the GOOTUBE Mark or which claims the right to use the GOOTUBE Mark or any variation thereof for any goods or services.
4. All documents relating to the selection of the GOOTUBE Mark.
5. All documents relating to the meaning of the GOOTUBE Mark.

6. All documents relating to the meaning of any part of the GOOTUBE Mark.
7. All documents which record, refer to, or relate to Applicant's decision to adopt and use the GOOTUBE Mark including, without limitation, samples of any names, designations and/or marks considered, rejected, used, or considered in the alternative.
8. All documents, reports or records concerning any search or investigation conducted by, for or on behalf of Applicant in connection with or as a result of any use by Applicant, Opposer or any third party of the term "GOOTUBE", including but not limited to, the United States Patent Office records, state trademark records, trademark or trade publications, business directories, or the records of any trademark service search firm, and showing the following:
 - a. The date it was made;
 - b. The name address, occupation and qualifications of each person by whom it was made;
 - c. The name and address of the person who requested it;
 - d. The name and location of each set of records searched; and
 - e. Whether any report was made, and if so, the name and address of the person who has custody of such report.
9. All documents which refer to, relate to, or are in any way concerned with the preparation, filing and/or prosecution by, for or on behalf of Applicant of any applications for registration, state or federal, of any mark consisting of or containing the term "GOOTUBE".
10. All documents relating to any study (including surveys, pilot tests, market research, consumer research, focus groups, or any other type of study) conducted by or on behalf of Applicant related in any way to the GOOTUBE Mark.
11. Documents sufficient to show any provision of Your Services by You.
12. All documents referring or relating to Applicant's first use of the GOOTUBE Mark.

13. All documents referring or relating to Applicant's first use of the GOOTUBE Mark in connection with the offer, sale, advertisement or promotion of any goods or services.
14. All documents referring or relating to any actual or planned use by You of the GOOTUBE Mark.
15. All documents referring or relating to any actual or planned use of the GOOTUBE Mark by You in connection with the offer, sale, advertisement or promotion of any goods or services.
16. All documents referring or relating to the marketing of the goods or services Applicant offers or intends to offer under the GOOTUBE Mark.
17. All documents which record, refer or relate to the target audience, intended market and/or channels of trade for any goods or services marketed or to be marketed by Applicant under the GOOTUBE Mark.
18. Representative copies of all labels, tags, decals, imprints, packaging, package inserts, wrappers, containers, displays, manuals, warranty cards, specifications or instruction sheets, or any other documentation accompanying goods or services on which the GOOTUBE Mark has been, is being or will be used on or in connection with any goods or services provided by Applicant.
19. All documents establishing the total annual revenue received by Applicant as a result of sales of goods or services under the GOOTUBE Mark, for each of the last five years (or since the date on which Applicant began using the GOOTUBE Mark, if that date is more recent).
20. All documents establishing the total annual amount spent by Applicant for or in connection with the advertising or promotion of goods or services under The GOOTUBE Mark, for each of the last five years (or since the date on which Applicant began using The GOOTUBE Mark, if that date is more recent).
21. All documents referring or relating to any use by Applicant of the wording "gootube" or "gootube.com" other than as a trademark or service mark.

22. All documents relating to the domain name www.gootube.com.
23. Documents reflecting the current appearance, and all preceding versions, of the web page located at www.gootube.com.
24. All documents constituting or relating to communications between Applicant and any person regarding Applicant's Application, or regarding the GOOTUBE Mark.
25. All documents which record, refer or relate to any encumbrance, assignment, transfer, license, consent or other agreement to which Applicant is a party or of which Applicant is aware involving the GOOTUBE Mark.
26. All documents related to any actual or planned use of the GOOTUBE Mark by an actual or potential assignee, licensee or other third party.
27. All documents referring or relating to the circumstances under which Applicant became aware of Opposer, Opposer's GOOGLE Mark, Opposer's YOUTUBE Marks, Opposer's YOUTUBE Applications, Opposer's GOOGLE Applications, Opposer's GOOGLE Registrations or the YouTube Purchase.
28. All documents referring to Opposer, Opposer's GOOGLE Mark, Opposer's YOUTUBE Marks, or the YouTube Purchase.
29. All documents referring or relating to the web page located at <http://blogs.zdnet.com/ip-telephony/?p=1274>.
30. All documents which record, refer or relate to any actual or alleged instance of confusion between the GOOTUBE Mark and any third party name or mark.
31. All documents which record, refer or relate to any dispute identified in response to Interrogatory 28, served contemporaneously herewith.
32. All documents identified in response to Opposer's First Set of Interrogatories to Applicant not provided in response to the above requests.

33. All documents that Applicant intends to offer as exhibits in this Opposition.
34. All documents identifying, describing or relating to Applicant's document retention policy and system.

DATED: September 23, 2009.

CERTIFICATE OF SERVICE

I hereby certify that this, OPPOSER'S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS AND THINGS, is being deposited with the United States Postal Service with sufficient postage as first class mail on September 23, 2009 in an envelope addressed to Applicant's counsel: Michael F. Hughes, Hughes Law Firm PLLC, 4164 Meridian Street, Suite 302, Bellingham, Washington 98266-5583.

Signature: 

Printed Name: Karen Chaterian

PERKINS COIE LLP

By 

William C. Rava

Richard R. Ronald

Perkins Coie LLP

1201 Third Avenue, 40th Floor

Seattle, Washington 98101-3099

(206) 359-3036

Attorneys for Google Inc.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

GOOGLE INC.,

Opposer,

v.

Eric Watson,

Applicant.

Opposition No.: 91183905

OPPOSER'S FIRST SET OF
INTERROGATORIES (NOS. 1-29)

Application Serial No.: 77/020,099

Filing Date: October 12, 2006

Publication Date: November 6, 2007

TO: Eric Watson ("Applicant")

Opposer Google Inc. ("Opposer"), through its counsel Perkins Coie LLP, hereby serves
Opposer's First Set of Interrogatories (each, an "Interrogatory" and together, the
"Interrogatories"):

Instructions

- A. These Interrogatories are to be answered separately and fully, in writing and under oath within thirty (30) days of the date of service on you.
- B. If you object to or fail to answer any of these Interrogatories, in whole or in part, state your objections and/or reasons for not responding and state all factual and legal justifications that you believe support your objection or failure to answer.
- C. If you deem that any Interrogatory calls for privileged information, and such privilege is asserted to avoid providing such information, provide a description of the information withheld and the privilege relied upon in sufficient detail to provide a basis for ruling on a motion to compel.
- D. If you object to answering only part of an Interrogatory, specify the part to which you object and answer the remainder.

- E. If you previously had information responsive to an Interrogatory, but no longer have it, please provide what information you do have and explain what led to the loss of the information (e.g., departure of knowledgeable employee, destruction or loss of documents). Where the loss of the information was due to departure of an employee, identify the employee, and identify the nature of the responsive information the employee is likely to have.
- F. You must reasonably and promptly supplement Your answers to these Interrogatories to the full extent required by FRCP 26(e) (as modified by the Trademark Rules).

Definitions

As used in these Interrogatories, the following terms have the meanings described below:

- i. The singular includes the plural and vice versa. The masculine includes the feminine and neuter genders. The past tense includes the present tense where the clear meaning is not distorted by change of tense.
- ii. "And" and "or" shall be given their ordinary meanings as well as mean "and/or."
- iii. "Person" means any natural person, marital community, partnership, corporation, joint venture, business entity or government entity.
- iv. "You," "Your" or any similar word or phrase includes each individual or entity responding to these discovery requests and, where applicable, each subsidiary, parent or affiliated entity of each such person or entity and all persons acting on its or their behalf.
- v. "Applicant" refers to Eric Watson and shall include without limitation any related entities, and any predecessors, parents, subsidiaries, successors, affiliates, divisions and subdivisions of such entity, and/or all the present and former employees, agents, managers, directors, licensees, distributors, representatives, including legal counsel and private investigators and any other persons or entities acting for or on behalf of such entity.

- vi. "Identify," when used with respect to a person, means to state with respect to each such person:
 - a. Name;
 - b. Last-known residence address;
 - c. Occupation, employer and business address at the date of the event or transaction to which the discovery requests refer; and
 - d. Present occupation, employer and business address (if different than c.).
- vii. "Identify," when used with respect to a fact or event, means to:
 - a. Describe the fact or event with reasonable particularity, including any relevant dates;
 - b. Identify each person believed to have knowledge with respect to the fact or event; and
 - c. Identify each document that refers or relates to the fact or event.
- viii. "Identify," when used with respect to a document, means to describe the document with sufficient particularity so as to provide the basis for a request for production pursuant to FRCP 34. In lieu of identifying a document in this manner, it will be sufficient to produce copies of the document.
- ix. "Explain," when used with respect to a fact or event, means to provide detailed reasons for or descriptions of the fact or event, including any relevant dates.
- x. "Document" means any kind of handwritten, typewritten, printed or recorded material whatsoever, including, without limitation, all drafts, copies, data compilations in computer-readable form, web sites, email, all foreign language documents and all translations of foreign language documents.
- xi. "Applicant's Application" means Application Serial No. 77/020,099, filed with the U.S. Patent and Trademark Office.
- xii. "GOOTUBE Mark" means the mark GOOTUBE.COM as shown in Applicant's Application, or as used by Applicant, or any variation thereof such as GOOTUBE

or GOO-TUBE.COM, in any case whether in all upper case lettering, all lower case lettering, or any combination thereof.

- xiii. "Your Services" means those services identified in Applicant's Application, namely "hosting of digital content on the internet, namely, hosting of digital media content for infants, children, and the parents of small children."
- xiv. "Amended Notice of Opposition" means the amended notice of opposition filed by Opposer with the U.S. Patent & Trademark Office in the instant case on July 25, 2008.
- xv. "Applicant's Answer" means Applicant's answer filed by Applicant with the U.S. Patent & Trademark Office on August 28, 2008 in response to the Amended Notice of Opposition.
- xvi. "Opposer's YOUTUBE Applications," "Opposer's YOUTUBE Marks," "Opposer's YOUTUBE Goods and Services," "Opposer's Search Engine Services," "Opposer's GOOGLE Mark," "Opposer's GOOGLE Registrations," "Opposer's GOOGLE Applications," and "Opposer's GOOGLE Goods and Services" have the meanings defined in the Amended Notice of Opposition.
- xvii. "Applicant's Website" means the website to which the domain name "gootube.com" resolves.
- xviii. "Opposer's Google Website" means the website to which the domain name "google.com" resolves.
- xix. "Opposer's YouTube Website" means the website to which the domain name "youtube.com" resolves.
- xx. "YouTube" means YouTube, an independent subsidiary of Google Inc.
- xxi. "The YouTube Purchase" means Google Inc.'s purchase of YouTube, announced on October 9, 2006, as shown in Exhibit D of the Amended Notice of Opposition.

Interrogatories

1. Identify the person or persons answering or who assisted or were consulted in answering these Interrogatories and Requests for Admission served contemporaneously herewith on behalf of Applicant, including their current employment positions and/or relationships with Applicant and their current business and residence addresses.
2. For each denial (not including denials based on a lack of sufficient information) in Applicant's Answer or in response to the Requests for Admission, state all facts and identify all documents forming the basis for said denial.
3. Identify the date on which Applicant first became aware of Opposer's YOUTUBE Marks and/or Opposer's YOUTUBE Applications, and state all facts and identify all documents relevant thereto.
4. Identify the date on which Applicant first became aware of Opposer's YOUTUBE Marks used in connection with any of Opposer's YOUTUBE Goods and Services, and state all facts and identify all documents relevant thereto.
5. Identify the date on which Applicant first used Opposer's YouTube Website.
6. Identify the date on which Applicant first became aware of Opposer's GOOGLE Mark, Opposer's GOOGLE Applications and/or Opposer's GOOGLE Registrations, and state all facts and identify all documents relevant thereto.
7. Identify the date on which Applicant first became aware of Opposer's GOOGLE Mark used in connection with Opposer's Search Engine Services or with any of Opposer's GOOGLE Goods and Services and state all facts and identify all documents relevant thereto.
8. Identify the date on which Applicant first used Opposer's Google Website.
9. Identify the date on which Applicant first became aware of the YouTube Purchase, and state all facts and identify all documents relevant thereto.
10. Identify the date on which Applicant first became aware of the use of the GOOTUBE Mark by anyone other than Applicant, and state all facts and identify all documents relevant thereto.

11. Identify the reasons and explain why Applicant selected the GOOTUBE Mark.
12. Identify and explain the meaning of "GOO" as a portion of the GOOTUBE Mark.
13. Identify and explain the meaning of "TUBE" as a portion of the GOOTUBE Mark.
14. Identify any use of the GOOTUBE Mark, and state all facts and identify all documents relevant thereto.
15. Identify any use of the GOOTUBE Mark for Your Services, and state all facts and identify all documents relevant thereto.
16. Identify the dates on which Applicant first used the GOOTUBE Mark, or any variation thereof.
17. Identify the dates on which Applicant first used the GOOTUBE Mark, or any variation thereof, in connection with the offer, sale, advertisement or promotion of any goods or services, and identify those goods or services.
18. Identify the dates on which Applicant first sold any goods and/or rendered any service under the GOOTUBE Mark, or any variation thereof, and identify those goods or services.
19. Identify and describe the manner in which Applicant renders, sells, advertises and promotes, or intends to render, sell, advertise and promote, any goods or services offered under the GOOTUBE Mark, including all web pages, advertisements, or other printed or electronic documents or material on which the GOOTUBE Mark or any variation thereof has been, is being, or will be used on or in connection with any goods or services provided by Applicant.
20. Identify and describe any materials used by Applicant in connection with the rendering, sale, advertising, marketing or promotion of any goods or services under the GOOTUBE Mark or any variation thereof.
21. Identify any use that You (or Your licensees) intend to make of the GOOTUBE Mark in the future, and describe all steps taken towards offering good or services under the GOOTUBE Mark.

22. Identify any agreements between You and any other party, including but not limited to any employment agreement and any authorization, consent or license to use or to seek to register the GOOTUBE Mark.

23. Identify and describe any documents, press releases, news stories, interviews, or any other public statements—including any in-print, online, or broadcast statements—in which Applicant comments on, discusses, or otherwise mentions the GOOTUBE Mark.

24. Identify and describe any documents, press releases, news stories, interviews, and any public statements—including any in-print, online, or broadcast statements—in which Applicant comments on, discusses, or otherwise mentions Opposer, YouTube, or the YouTube Purchase.

25. Identify and describe any documents, press releases, news stories, interviews, and any public statements—including any in-print, online, or broadcast statements—in which Applicant comments on, discusses, or otherwise mentions Opposer's YOUTUBE Marks or Opposer's GOOGLE Mark.


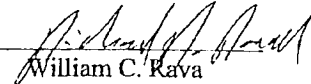
26. Identify the reasons and explain why Applicant filed Applicant's Application on October 12, 2006.

27. Identify Your employment history (including officerships or directorships) for the past five years, and any planned future employment.

28. Identify and describe any current or previous dispute (including administrative and district court litigation and cease and desist correspondence) in which Applicant has been involved relating to the GOOTUBE Mark, and for each such dispute list the names of the parties, the date of and forum for the dispute, and a description of the dispute, including any outcome and the mark or term at issue.

29. Identify all searches of any trademark, service mark or business name conducted by, for or on behalf of Applicant for the GOOTUBE Mark or any variation thereof.

DATED: September 23, 2009.

<p>CERTIFICATE OF SERVICE</p> <p>I hereby certify that this, Opposer's First Set of Interrogatories, is being deposited with the United States Postal Service with sufficient postage as first class mail on September <u>23</u>, 2009 in an envelope addressed to Applicant's counsel: Michael F. Hughes, Hughes Law Firm PLLC, 4164 Meridian Street, Suite 302, Bellingham, Washington 98266-5583</p> <p>Signature: </p> <p>Printed Name: <u>Karen Chikentian</u></p>	<p>PERKINS COIE LLP</p> <p>By  William C. Kava Richard R. Ronald Perkins Coie LLP 1201 Third Avenue, 40th Floor Seattle, Washington 98101-3099 (206) 359-3036 Attorneys for Google Inc.</p>
---	--

ATTACHMENT 9

Ronald, Richard R. (Perkins Coie)

From: Ronald, Richard R. (Perkins Coie)
Sent: Monday, November 02, 2009 10:07 PM
To: Mike Hughes
Cc: Rava, William C. (Perkins Coie)
Subject: FW: gootube (41063-7016.0000.PX001)

Dear Mike:

It does not appear that we have received either a response to my email below or timely responses to our discovery requests. Accordingly, your responses are delinquent and you have waived any right to object to answering any of the interrogatories or from producing any documents requested. Additionally, you are deemed to have admitted each of the propounded requests for admission, absent a showing of excusable neglect or a successful motion to withdraw or amend the admissions.

It is our hope that we can keep these proceedings moving along in an amiable manner, and that a motion to compel responses will not be needed. We would like to schedule a brief meet-and-confer to discuss these issues. Please let us know of a good time to call you tomorrow or Wednesday.

Sincerely,

-Richard

-----Original Message-----

From: Ronald, Richard R. (Perkins Coie)
Sent: Wednesday, October 28, 2009 2:23 PM
To: 'Mike Hughes'
Cc: Rava, William C. (Perkins Coie)
Subject: RE: gootube (41063-7016.0000.PX001)

Mike:

I do not believe the client will agree to such a lengthy extension this late in the process, especially with the possibility of a change in counsel and the delays that such a move would entail. Please note that our client spoke directly to your client regarding a possible settlement in March and has waited for a good faith response since then. We also delayed the filing of discovery on a number of occasions to give your client more time to make a counterproposal, which has not been forthcoming.

The client might agree to a shorter time frame--along the lines of 14 days--provided you can guarantee we would receive actual and complete responses to our requests.

Sincerely,

-Richard

2/23/2010

Richard R. Ronald | Perkins Coie LLP
1201 Third Avenue, Suite 4800
Seattle, WA 98101-3099
Phone: 206.359.8255
Fax: 206.359.9255
Email: rronald@perkinscoie.com

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-----Original Message-----

From: Mike Hughes [mailto:mhughes@inventionlaw.com]
Sent: Tuesday, October 27, 2009 4:00 PM
To: Ronald, Richard R. (Perkins Coie)
Subject: Re: gootube

Hi Ron,

Could we have a 45 day extension. We might transfer this file to another attorney that handles oppositions on a more regular basis.

Thank you.
Mike Hughes

Ronald, Richard R. (Perkins Coie) wrote:

Mike:

How long do you need to prepare the responses?

Sincerely,

-Richard

Richard R. Ronald | Perkins Coie LLP
1201 Third Avenue, Suite 4800
Seattle, WA 98101-3099

2/23/2010

*: 206.359.8255

7: 206.359.9255

*: ronald@perkinscoie.com

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-----Original Message-----

From: Mike Hughes [mailto:mhughes@inventionlaw.com]

Sent: Friday, October 23, 2009 12:17 PM

To: Ronald, Richard R. (Perkins Coie)

Subject: gootube

Hi Ron,

Would you agree to an extension to the discovery request regarding the

GOOTUBE matter.

Thank you.

--

*

Mike Hughes

Patent Attorney

Mechanical Engineer B.S.

2/23/2010

Hughes Law Firm, PLLC

5160 Industrial Place, Suite 107

Ferndale, WA 98248

(360) 647-1296

fax (360) 671-2489

www.inventionlaw.com

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2/23/2010

* * * * *

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* * * * *

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--
*

Mike Hughes
Patent Attorney
Mechanical Engineer B.S.
Hughes Law Firm, PLLC
5160 Industrial Place, Suite 107
Ferndale, WA 98248
(360) 647-1296
fax (360) 671-2489
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2/23/2010

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ATTACHMENT 10

Chekenian, Karen (Perkins Coie)

From: Mike Hughes [mhughes@inventionlaw.com]
Sent: Thursday, November 05, 2009 2:46 PM
To: Ronald, Richard R. (Perkins Coie)
Subject: Re: FW: gootube (41063-7016 0000 PX001)

Hi Richard,

I would like to discuss this matter further tomorrow if possible.

Thank you.
Mike Hughes

Ronald, Richard R. (Perkins Coie) wrote:

Dear Mike:

It does not appear that we have received either a response to my email below or timely responses to our discovery requests. Accordingly, your responses are delinquent and you have waived any right to object to answering any of the interrogatories or from producing any documents requested. Additionally, you are deemed to have admitted each of the propounded requests for admission, absent a showing of excusable neglect or a successful motion to withdraw or amend the admissions.

It is our hope that we can keep these proceedings moving along in an amiable manner, and that a motion to compel responses will not be needed. We would like to schedule a brief meet-and-confer to discuss these issues. Please let us know of a good time to call you tomorrow or Wednesday.

Sincerely,

-Richard

-----Original Message-----

From: Ronald, Richard R. (Perkins Coie)
Sent: Wednesday, October 28, 2009 2:23 PM
To: 'Mike Hughes'
Cc: Rava, William C. (Perkins Coie)
Subject: RE: gootube (41063-7016.0000.PX001)

Mike:

I do not believe the client will agree to such a lengthy extension this late in the process, especially with the possibility of a change in counsel and the delays that such a move would entail. Please note that our client spoke directly to your client regarding a possible settlement in March and has waited for a good faith response since then. We also delayed the filing of discovery on a number of occasions to give your client more time to make a counterproposal, which has not been forthcoming.

11/5/2009

The client might agree to a shorter time frame--along the lines of 14 days--provided you can guarantee we would receive actual and complete responses to our requests.

Sincerely,

-Richard

Richard R. Ronald | Perkins Coie LLP
1201 Third Avenue, Suite 4800
Seattle, WA 98101-3099
Phone: 206.359.8255
Fax: 206.359.9255
Email: rronald@perkinscoie.com

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-----Original Message-----

From: Mike Hughes [mailto:mhughes@inventionlaw.com]
Sent: Tuesday, October 27, 2009 4:00 PM
To: Ronald, Richard R. (Perkins Coie)
Subject: Re: gootube

Hi Ron,

Could we have a 45 day extension. We might transfer this file to another attorney that handles oppositions on a more regular basis.

Thank you.
Mike Hughes

Ronald, Richard R. (Perkins Coie) wrote:

Mike:

How long do you need to prepare the responses?

Sincerely,

-Richard

11/5/2009

Richard R. Ronald - Perkins Coie LLP

1201 Third Avenue, Suite 4800

Seattle, WA 98101-3099

*: 206.359.8255

7: 206.359.9255

*: rronald@perkinscoie.com

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the taxpayer under the Internal Revenue Code of 1986, as amended.

-----Original Message-----

From: Mike Hughes [mailto:mhughes@inventionlaw.com]

Sent: Friday, October 23, 2009 12:17 PM

To: Ronald, Richard R. (Perkins Coie)

Subject: gootube

Hi Ron,

Would you agree to an extension to the discovery request regarding the

GOOTUBE matter.

Thank you.

11/5/2009

Mike Hughes

Patent Attorney

Mechanical Engineer B.S.

Hughes Law Firm, PLLC

5160 Industrial Place, Suite 107

Ferndale, WA 98248

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disclosure

under applicable law. If the reader of this message is not the intended

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* * * * *

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Department and IRS regulations, we inform you that, unless expressly indicated otherwise, any federal tax advice contained in this communication (including any attachments) is not intended or written by Perkins Coie LLP to be used, and cannot be used by the taxpayer, for the purpose of (i) avoiding penalties that may be imposed on the taxpayer under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein (or any attachments).

* * * * *

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--
*

Mike Hughes
Patent Attorney
Mechanical Engineer B.S.
Hughes Law Firm, PLLC
5160 Industrial Place, Suite 107
Ferndale, WA 98248
(360) 647-1296

11/5/2009

fax (360) 671-2489
www.inventionlaw.com

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--
*
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Mechanical Engineer B.S.
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11/5/2009

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11/5/2009

ATTACHMENT 11

Rava, William C. (Perkins Coie)

From: Rava, William C. (Perkins Coie)
Sent: Monday, November 09, 2009 10:26 AM
To: 'mhughes@inventionlaw.com'
Cc: Ronald, Richard R. (Perkins Coie)
Subject: RE: gootube (41063-7016.0000.PX001)
Attachments: GOOTUBE Motion to Suspend.pdf

Mike,

Following up on this email string and my vmail from Friday. Relatedly, we filed the attached motion on Thursday

Please let me know a good time to discuss. I'm generally in the office this week. Thanks

Will

William C. Rava | Perkins Coie LLP
1201 Third Avenue, Suite 4800
Seattle, WA 98101-3099
PHONE: 206 359 5338
FAX: 206 359 7338
E-MAIL: wrava@perkinscoie.com

From: "Mike Hughes" <mhughes@inventionlaw.com>
Date: November 5, 2009 2:45:55 PM PST
To: "Ronald, Richard R. (Perkins Coie)" <RRonald@perkinscoie.com>
Subject: Re: FW: gootube (41063-7016.0000.PX001)

Hi Richard,

I would like to discuss this matter further tomorrow if possible.

Thank you.
Mike Hughes

Ronald, Richard R. (Perkins Coie) wrote:

Dear Mike:

It does not appear that we have received either a response to my email below or timely responses to our discovery requests. Accordingly, your responses are delinquent and you have waived any right to object to answering any of the interrogatories or from producing any documents requested. Additionally, you are deemed to have admitted each of the propounded requests for admission, absent a showing of excusable neglect or a successful motion to withdraw or amend the admissions.

11/18/2009

It is our hope that we can keep these proceedings moving along in an amiable manner, and that a motion to compel responses will not be needed. We would like to schedule a brief meet-and-confer to discuss these issues. Please let us know of a good time to call you tomorrow or Wednesday.

Sincerely,

-Richard

-----Original Message-----

From: Ronald, Richard R. (Perkins Coie)

Sent: Wednesday, October 28, 2009 2:23 PM

To: 'Mike Hughes'

Cc: Rava, William C. (Perkins Coie)

Subject: RE: gootube (41063-7016.0000.PX001)

Mike:

I do not believe the client will agree to such a lengthy extension this late in the process, especially with the possibility of a change in counsel and the delays that such a move would entail. Please note that our client spoke directly to your client regarding a possible settlement in March and has waited for a good faith response since then. We also delayed the filing of discovery on a number of occasions to give your client more time to make a counterproposal, which has not been forthcoming.

The client might agree to a shorter time frame--along the lines of 14 days--provided you can guarantee we would receive actual and complete responses to our requests.

Sincerely,

-Richard

Richard R. Ronald | Perkins Coie LLP
1201 Third Avenue, Suite 4800
Seattle, WA 98101-3099

11/18/2009

Phone: 206.359.8255
Fax: 206.359.9255
Email: rronald@perkinscoie.com

IMPORTANT TAX INFORMATION: This communication is not intended or written by Perkins Coie LLP to be used, and cannot be used by the taxpayer, for the purpose of avoiding penalties that may be imposed on the taxpayer under the Internal Revenue Code of 1986, as amended.

-----Original Message-----

From: Mike Hughes [mailto:mhughes@inventionlaw.com]
Sent: Tuesday, October 27, 2009 4:00 PM
To: Ronald, Richard R. (Perkins Coie)
Subject: Re: gootube

Hi Ron,

Could we have a 45 day extension. We might transfer this file to another attorney that handles oppositions on a more regular basis.

Thank you.
Mike Hughes

Ronald, Richard R. (Perkins Coie) wrote:

Mike:

How long do you need to prepare the responses?

Sincerely,

-Richard

Richard R. Ronald | Perkins Coie LLP

1201 Third Avenue, Suite 4800

Seattle, WA 98101-3099

11/18/2009

*: 206.359.8255

7: 206.359.9255

*: rronald@perkinscoie.com

IMPORTANT TAX INFORMATION: This communication is not intended or

written by Perkins Coie LLP to be used, and cannot be used by the

taxpayer, for the purpose of avoiding penalties that may be imposed on

the taxpayer under the Internal Revenue Code of 1986, as amended.

-----Original Message-----

From: Mike Hughes
[mailto:mhughes@inventionlaw.com]

Sent: Friday, October 23, 2009 12:17 PM

To: Ronald, Richard R. (Perkins Coie)

Subject: gootube

Hi Ron,

Would you agree to an extension to the discovery request regarding the

GOOTUBE matter.

Thank you.

--

11/18/2009

*

Mike Hughes

Patent Attorney

Mechanical Engineer B.S.

Hughes Law Firm, PLLC

5160 Industrial Place, Suite 107

Ferndale, WA 98248

(360) 647-1296

fax (360) 671-2489

www.inventionlaw.com

*Text Produced by ScanSoft

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disclosure

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delivering the

message to the intended recipient, you are hereby
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* * * * *

IRS CIRCULAR 230 DISCLOSURE: To ensure
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Department and IRS regulations, we inform you that, unless
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indicated otherwise, any federal tax advice contained in this
communication (including any attachments) is not intended or
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Perkins Coie LLP to be used, and cannot be used by the taxpayer,
for the
purpose of (i) avoiding penalties that may be imposed on the
taxpayer
under the Internal Revenue Code or (ii) promoting, marketing or
recommending to another party any transaction or matter addressed
herein
(or any attachments).

* * * * *

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11/18/2009

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confidential information. If you have received it in error, please advise the sender by reply email and immediately delete the message and any attachments without copying or disclosing the contents. Thank you.

--

*

Mike Hughes
Patent Attorney
Mechanical Engineer B.S.
Hughes Law Firm, PLLC
5160 Industrial Place, Suite 107
Ferndale, WA 98248
(360) 647-1296
fax (360) 671-2489
www.inventionlaw.com

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* * * * *

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penalties that may be imposed on the taxpayer under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein (or any attachments).

* * * * *

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Mike Hughes
Patent Attorney
Mechanical Engineer B.S.
Hughes Law Firm, PLLC
5160 Industrial Place, Suite 107
Ferndale, WA 98248
(360) 647-1296
fax (360) 671-2489
www.inventionlaw.com

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ATTACHMENT 12

ESTTA Tracking number: **ESTTA317540**

Filing date: **11/18/2009**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91183905
Party	Plaintiff Google Inc.
Correspondence Address	James L. Vana Pekins Coie LLP 1201 Third Avenue40th Floor Seattle, WA 98101-3099 UNITED STATES pctrademarks@perkinscoie.com, rronald@perkinscoie.com
Submission	Motion to Compel Discovery
Filer's Name	William C. Rava
Filer's e-mail	wrava@perkinscoie.com, rgregory@perkinscoie.com
Signature	/wrava/
Date	11/18/2009
Attachments	motion to compel.pdf (49 pages)(1480787 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

GOOGLE INC.,

Opposer,

v.

ERIC WATSON,

Applicant.

Opposition No.: 91183905

OPPOSER'S MOTION TO COMPEL
DISCOVERY ANSWERS

Pursuant to Rules 2.120(e), Google Inc. ("Opposer"), a Delaware corporation having its principal place of business at 1600 Amphitheatre Parkway, Mountain View, California 94043, hereby respectfully moves to compel Eric Watson ("Applicant") to respond to Opposer's First Set of Requests for Production of Documents and Things and Opposer's First Set of Interrogatories (collectively, "Opposer's Discovery Requests")¹.

The following facts and law support this Motion to Compel:

1. During a March 17, 2009 conversation between Applicant and an in-house attorney at Opposer, Applicant represented that he would shortly thereafter make a concrete settlement proposal. Thus, between approximately March and August 2009, Opposer and Applicant stipulated to several extensions of the discovery deadlines so that the parties could discuss possible settlement of this matter. Despite Opposer's repeated requests and persistent follow-up with Applicant and his attorney, Applicant has still not provided the promised settlement proposal. *See* Attachment 7.
2. On September 23, 2009, Opposer timely served Opposer's Discovery Requests on Applicant via first-class mail addressed to Applicant's counsel, Michael F. Hughes, Hughes Law

¹ Applicant also failed to respond to Opposer's First Set of Requests for Admission, which are now deemed admitted. FRCP 36(a)(3).

Firm PLLC, 4164 Meridian Street, Suite 302, Bellingham, Washington 98266-5583. *See* Attachment 1.

3. Under TBMP 403.03, Applicant's responses to Opposer's Discovery Requests were due on October 28, 2009.

4. On October 23, 2009, Applicant's counsel requested an extension of unspecified length of the October 28, 2009 deadline to provide responses to Opposer's Discovery Requests. *See* Attachment 2.

5. Between October 26, 2009 and October 28, 2009, Applicant and Opposer corresponded via email regarding Applicant's request without reaching a resolution. *See* Attachment 3. As of this filing, Applicant has not substantively responded to Opposer's email of October 28.

6. Applicant failed to respond to Opposer's Discovery Requests by the October 28, 2009 deadline.

7. On November 2, 2009, Opposer notified Applicant that his discovery responses were delinquent and proposed a meet-and-confer to discuss the matter. *See* Attachment 4.

8. On November 5, 2009, Applicant requested a telephonic conference on November 6, but provided no further substantive information or explanations. *See* Attachment 5.

9. On November 6, 2009, and as requested by Applicant's November 5 email, Opposer left a voicemail message for Applicant to discuss this matter. As of this filing, Applicant has not returned the call.

10. On November 9, 2009, Opposer sent Applicant yet another email seeking to confer about the delinquent discovery responses. *See* Attachment 6. As of this filing, Applicant has not responded to that email.

11. Thus, Opposer timely and properly served Opposer's Discovery Requests; Applicant has not timely answered or otherwise responded to Opposer's Discovery Requests; Applicant has therefore waived all objections to Opposer's Discovery Requests; and, pursuant to

Rules 2.120(e), Opposer is therefore entitled to an order compelling Applicant to provide complete and accurate answers Opposer's Discovery Requests. Opposer has made a good faith effort, by conference and correspondence, to resolve the issues presented in this Motion and has been unable to reach an agreement. *See* Attachment 7.

WHEREFORE, Opposer requests an order compelling Applicant to answer Opposer's Discovery Requests and that this matter be suspended pursuant to Rule 2.120(e)(2) pending disposition of this Motion.

Dated: November 18, 2009

CERTIFICATE OF SERVICE

I hereby certify that this, OPPOSER'S MOTION TO SUSPEND, is being deposited with the United States Postal Service with sufficient postage as first class mail on November 18, 2009 in an envelope addressed to counsel for Applicant: Michael F. Hughes, Hughes Law Firm, PLLC, 5160 Industrial Place #107, Ferndale, WA 98248

Signature: Rebecca J. Gregory

Printed Name: Rebecca J. Gregory

Respectfully submitted,

PERKINS COIE LLP

William C. Rava 11/18/09

William C. Rava

Richard R. Ronald

Perkins Coie LLP

1201 Third Avenue, 40th Floor

Seattle, Washington 98101-3099

(206) 359-3036

Attorneys for Google Inc.

Attachment 1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

GOOGLE INC.,

Opposer,

v.

Eric Watson,

Applicant.

Opposition No.: 91183905

OPPOSER'S FIRST SET OF
INTERROGATORIES (NOS. 1-29)

Application Serial No.: 77/020,099

Filing Date: October 12, 2006

Publication Date: November 6, 2007

TO: Eric Watson ("Applicant")

Opposer Google Inc. ("Opposer"), through its counsel Perkins Coie LLP, hereby serves
Opposer's First Set of Interrogatories (each, an "Interrogatory" and together, the
"Interrogatories"):

Instructions

- A. These Interrogatories are to be answered separately and fully, in writing and under oath within thirty (30) days of the date of service on you.
- B. If you object to or fail to answer any of these Interrogatories, in whole or in part, state your objections and/or reasons for not responding and state all factual and legal justifications that you believe support your objection or failure to answer.
- C. If you deem that any Interrogatory calls for privileged information, and such privilege is asserted to avoid providing such information, provide a description of the information withheld and the privilege relied upon in sufficient detail to provide a basis for ruling on a motion to compel.
- D. If you object to answering only part of an Interrogatory, specify the part to which you object and answer the remainder.

- E. If you previously had information responsive to an Interrogatory, but no longer have it, please provide what information you do have and explain what led to the loss of the information (e.g., departure of knowledgeable employee, destruction or loss of documents). Where the loss of the information was due to departure of an employee, identify the employee, and identify the nature of the responsive information the employee is likely to have.
- F. You must reasonably and promptly supplement Your answers to these Interrogatories to the full extent required by FRCP 26(e) (as modified by the Trademark Rules).

Definitions

As used in these Interrogatories, the following terms have the meanings described below:

- i. The singular includes the plural and vice versa. The masculine includes the feminine and neuter genders. The past tense includes the present tense where the clear meaning is not distorted by change of tense.
- ii. "And" and "or" shall be given their ordinary meanings as well as mean "and/or."
- iii. "Person" means any natural person, marital community, partnership, corporation, joint venture, business entity or government entity.
- iv. "You," "Your" or any similar word or phrase includes each individual or entity responding to these discovery requests and, where applicable, each subsidiary, parent or affiliated entity of each such person or entity and all persons acting on its or their behalf.
- v. "Applicant" refers to Eric Watson and shall include without limitation any related entities, and any predecessors, parents, subsidiaries, successors, affiliates, divisions and subdivisions of such entity, and/or all the present and former employees, agents, managers, directors, licensees, distributors, representatives, including legal counsel and private investigators and any other persons or entities acting for or on behalf of such entity.

- vi. "Identify," when used with respect to a person, means to state with respect to each such person:
 - a. Name;
 - b. Last-known residence address;
 - c. Occupation, employer and business address at the date of the event or transaction to which the discovery requests refer; and
 - d. Present occupation, employer and business address (if different than c.).
- vii. "Identify," when used with respect to a fact or event, means to:
 - a. Describe the fact or event with reasonable particularity, including any relevant dates;
 - b. Identify each person believed to have knowledge with respect to the fact or event; and
 - c. Identify each document that refers or relates to the fact or event.
- viii. "Identify," when used with respect to a document, means to describe the document with sufficient particularity so as to provide the basis for a request for production pursuant to FRCP 34. In lieu of identifying a document in this manner, it will be sufficient to produce copies of the document.
- ix. "Explain," when used with respect to a fact or event, means to provide detailed reasons for or descriptions of the fact or event, including any relevant dates.
- x. "Document" means any kind of handwritten, typewritten, printed or recorded material whatsoever, including, without limitation, all drafts, copies, data compilations in computer-readable form, web sites, email, all foreign language documents and all translations of foreign language documents.
- xi. "Applicant's Application" means Application Serial No. 77/020,099, filed with the U.S. Patent and Trademark Office.
- xii. "GOOTUBE Mark" means the mark GOOTUBE.COM as shown in Applicant's Application, or as used by Applicant, or any variation thereof such as GOOTUBE

or GOO-TUBE.COM, in any case whether in all upper case lettering, all lower case lettering, or any combination thereof.

- xiii. "Your Services" means those services identified in Applicant's Application, namely "hosting of digital content on the internet, namely, hosting of digital media content for infants, children, and the parents of small children."
- xiv. "Amended Notice of Opposition" means the amended notice of opposition filed by Opposer with the U.S. Patent & Trademark Office in the instant case on July 25, 2008.
- xv. "Applicant's Answer" means Applicant's answer filed by Applicant with the U.S. Patent & Trademark Office on August 28, 2008 in response to the Amended Notice of Opposition.
- xvi. "Opposer's YOUTUBE Applications," "Opposer's YOUTUBE Marks," "Opposer's YOUTUBE Goods and Services," "Opposer's Search Engine Services," "Opposer's GOOGLE Mark," "Opposer's GOOGLE Registrations," "Opposer's GOOGLE Applications," and "Opposer's GOOGLE Goods and Services" have the meanings defined in the Amended Notice of Opposition.
- xvii. "Applicant's Website" means the website to which the domain name "gootube.com" resolves.
- xviii. "Opposer's Google Website" means the website to which the domain name "google.com" resolves.
- xix. "Opposer's YouTube Website" means the website to which the domain name "youtube.com" resolves.
- xx. "YouTube" means YouTube, an independent subsidiary of Google Inc.
- xxi. "The YouTube Purchase" means Google Inc.'s purchase of YouTube, announced on October 9, 2006, as shown in Exhibit D of the Amended Notice of Opposition.

Interrogatories

1. Identify the person or persons answering or who assisted or were consulted in answering these Interrogatories and Requests for Admission served contemporaneously herewith on behalf of Applicant, including their current employment positions and/or relationships with Applicant and their current business and residence addresses.
2. For each denial (not including denials based on a lack of sufficient information) in Applicant's Answer or in response to the Requests for Admission, state all facts and identify all documents forming the basis for said denial.
3. Identify the date on which Applicant first became aware of Opposer's YOUTUBE Marks and/or Opposer's YOUTUBE Applications, and state all facts and identify all documents relevant thereto.
4. Identify the date on which Applicant first became aware of Opposer's YOUTUBE Marks used in connection with any of Opposer's YOUTUBE Goods and Services, and state all facts and identify all documents relevant thereto.
5. Identify the date on which Applicant first used Opposer's YouTube Website.
6. Identify the date on which Applicant first became aware of Opposer's GOOGLE Mark, Opposer's GOOGLE Applications and/or Opposer's GOOGLE Registrations, and state all facts and identify all documents relevant thereto.
7. Identify the date on which Applicant first became aware of Opposer's GOOGLE Mark used in connection with Opposer's Search Engine Services or with any of Opposer's GOOGLE Goods and Services and state all facts and identify all documents relevant thereto.
8. Identify the date on which Applicant first used Opposer's Google Website.
9. Identify the date on which Applicant first became aware of the YouTube Purchase, and state all facts and identify all documents relevant thereto.
10. Identify the date on which Applicant first became aware of the use of the GOOTUBE Mark by anyone other than Applicant, and state all facts and identify all documents relevant thereto.

11. Identify the reasons and explain why Applicant selected the GOOTUBE Mark.
12. Identify and explain the meaning of "GOO" as a portion of the GOOTUBE Mark.
13. Identify and explain the meaning of "TUBE" as a portion of the GOOTUBE Mark.
14. Identify any use of the GOOTUBE Mark, and state all facts and identify all documents relevant thereto.
15. Identify any use of the GOOTUBE Mark for Your Services, and state all facts and identify all documents relevant thereto.
16. Identify the dates on which Applicant first used the GOOTUBE Mark, or any variation thereof.
17. Identify the dates on which Applicant first used the GOOTUBE Mark, or any variation thereof, in connection with the offer, sale, advertisement or promotion of any goods or services, and identify those goods or services.
18. Identify the dates on which Applicant first sold any goods and/or rendered any service under the GOOTUBE Mark, or any variation thereof, and identify those goods or services.
19. Identify and describe the manner in which Applicant renders, sells, advertises and promotes, or intends to render, sell, advertise and promote, any goods or services offered under the GOOTUBE Mark, including all web pages, advertisements, or other printed or electronic documents or material on which the GOOTUBE Mark or any variation thereof has been, is being, or will be used on or in connection with any goods or services provided by Applicant.
20. Identify and describe any materials used by Applicant in connection with the rendering, sale, advertising, marketing or promotion of any goods or services under the GOOTUBE Mark or any variation thereof.
21. Identify any use that You (or Your licensees) intend to make of the GOOTUBE Mark in the future, and describe all steps taken towards offering good or services under the GOOTUBE Mark.

22. Identify any agreements between You and any other party, including but not limited to any employment agreement and any authorization, consent or license to use or to seek to register the GOOTUBE Mark.

23. Identify and describe any documents, press releases, news stories, interviews, or any other public statements—including any in-print, online, or broadcast statements—in which Applicant comments on, discusses, or otherwise mentions the GOOTUBE Mark.

24. Identify and describe any documents, press releases, news stories, interviews, and any public statements—including any in-print, online, or broadcast statements—in which Applicant comments on, discusses, or otherwise mentions Opposer, YouTube, or the YouTube Purchase.

25. Identify and describe any documents, press releases, news stories, interviews, and any public statements—including any in-print, online, or broadcast statements—in which Applicant comments on, discusses, or otherwise mentions Opposer's YOUTUBE Marks or Opposer's GOOGLE Mark.

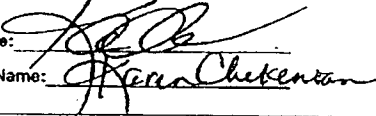
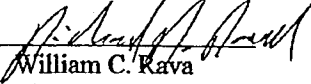
26. Identify the reasons and explain why Applicant filed Applicant's Application on October 12, 2006.

27. Identify Your employment history (including officerships or directorships) for the past five years, and any planned future employment.

28. Identify and describe any current or previous dispute (including administrative and district court litigation and cease and desist correspondence) in which Applicant has been involved relating to the GOOTUBE Mark, and for each such dispute list the names of the parties, the date of and forum for the dispute, and a description of the dispute, including any outcome and the mark or term at issue.

29. Identify all searches of any trademark, service mark or business name conducted by, for or on behalf of Applicant for the GOOTUBE Mark or any variation thereof.

DATED: September 23, 2009.

<p>CERTIFICATE OF SERVICE</p> <p>I hereby certify that this, Opposer's First Set of Interrogatories, is being deposited with the United States Postal Service with sufficient postage as first class mail on September <u>23</u>, 2009 in an envelope addressed to Applicant's counsel: Michael F. Hughes, Hughes Law Firm PLLC, 4164 Meridian Street, Suite 302, Bellingham, Washington 98266-5583.</p> <p>Signature: </p> <p>Printed Name: <u>Karen Chikensan</u></p>	<p>PERKINS COIE LLP</p> <p>By  William C. Kava Richard R. Ronald Perkins Coie LLP 1201 Third Avenue, 40th Floor Seattle, Washington 98101-3099 (206) 359-3036 Attorneys for Google Inc.</p>
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

GOOGLE INC.,

Opposer,

v.

Eric Watson,

Applicant.

Opposition No.: 91183905

OPPOSER'S FIRST SET OF REQUESTS
FOR PRODUCTION OF DOCUMENTS AND
THINGS (NOS. 1- 34)

Application Serial No.: 77/020,099
Filing Date: October 12, 2006
Publication Date: November 6, 2007

TO: Eric Watson ("Applicant")

Opposer Google Inc. ("Opposer"), through its counsel Perkins Coie LLP, hereby serves Opposer's First Set of Requests for Production of Documents and Things (each, a "Request" and together, the "Requests"). These Requests incorporate the Instructions and Definitions from Opposer's First Set of Interrogatories.

Requests for Production

1. All documents forming the basis for each denial (not including denials based on a lack of sufficient information) in Applicant's Answer or in response to any Request for Admission, whether served previously or contemporaneously herewith.
2. Documents sufficient to fully show Your employment history over the past five years.
3. Documents sufficient to fully describe the organizational structure or reporting responsibilities of any entity which You have been employed by, served as an officer of, or served as a director of, in connection with the GOOTUBE Mark or which claims the right to use the GOOTUBE Mark or any variation thereof for any goods or services.
4. All documents relating to the selection of the GOOTUBE Mark.
5. All documents relating to the meaning of the GOOTUBE Mark.

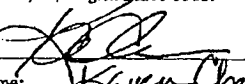

6. All documents relating to the meaning of any part of the GOOTUBE Mark.
7. All documents which record, refer to, or relate to Applicant's decision to adopt and use the GOOTUBE Mark including, without limitation, samples of any names, designations and/or marks considered, rejected, used, or considered in the alternative.
8. All documents, reports or records concerning any search or investigation conducted by, for or on behalf of Applicant in connection with or as a result of any use by Applicant, Opposer or any third party of the term "GOOTUBE", including but not limited to, the United States Patent Office records, state trademark records, trademark or trade publications, business directories, or the records of any trademark service search firm, and showing the following:
 - a. The date it was made;
 - b. The name address, occupation and qualifications of each person by whom it was made;
 - c. The name and address of the person who requested it;
 - d. The name and location of each set of records searched; and
 - e. Whether any report was made, and if so, the name and address of the person who has custody of such report.
9. All documents which refer to, relate to, or are in any way concerned with the preparation, filing and/or prosecution by, for or on behalf of Applicant of any applications for registration, state or federal, of any mark consisting of or containing the term "GOOTUBE".
10. All documents relating to any study (including surveys, pilot tests, market research, consumer research, focus groups, or any other type of study) conducted by or on behalf of Applicant related in any way to the GOOTUBE Mark.
11. Documents sufficient to show any provision of Your Services by You.
12. All documents referring or relating to Applicant's first use of the GOOTUBE Mark.

13. All documents referring or relating to Applicant's first use of the GOOTUBE Mark in connection with the offer, sale, advertisement or promotion of any goods or services.
14. All documents referring or relating to any actual or planned use by You of the GOOTUBE Mark.
15. All documents referring or relating to any actual or planned use of the GOOTUBE Mark by You in connection with the offer, sale, advertisement or promotion of any goods or services.
16. All documents referring or relating to the marketing of the goods or services Applicant offers or intends to offer under the GOOTUBE Mark.
17. All documents which record, refer or relate to the target audience, intended market and/or channels of trade for any goods or services marketed or to be marketed by Applicant under the GOOTUBE Mark.
18. Representative copies of all labels, tags, decals, imprints, packaging, package inserts, wrappers, containers, displays, manuals, warranty cards, specifications or instruction sheets, or any other documentation accompanying goods or services on which the GOOTUBE Mark has been, is being or will be used on or in connection with any goods or services provided by Applicant.
19. All documents establishing the total annual revenue received by Applicant as a result of sales of goods or services under the GOOTUBE Mark, for each of the last five years (or since the date on which Applicant began using the GOOTUBE Mark, if that date is more recent).
20. All documents establishing the total annual amount spent by Applicant for or in connection with the advertising or promotion of goods or services under The GOOTUBE Mark, for each of the last five years (or since the date on which Applicant began using The GOOTUBE Mark, if that date is more recent).
21. All documents referring or relating to any use by Applicant of the wording "gootube" or "gootube.com" other than as a trademark or service mark.

22. All documents relating to the domain name www.gootube.com.
23. Documents reflecting the current appearance, and all preceding versions, of the web page located at www.gootube.com.
24. All documents constituting or relating to communications between Applicant and any person regarding Applicant's Application, or regarding the GOOTUBE Mark.
25. All documents which record, refer or relate to any encumbrance, assignment, transfer, license, consent or other agreement to which Applicant is a party or of which Applicant is aware involving the GOOTUBE Mark.
26. All documents related to any actual or planned use of the GOOTUBE Mark by an actual or potential assignee, licensee or other third party.
27. All documents referring or relating to the circumstances under which Applicant became aware of Opposer, Opposer's GOOGLE Mark, Opposer's YOUTUBE Marks, Opposer's YOUTUBE Applications, Opposer's GOOGLE Applications, Opposer's GOOGLE Registrations or the YouTube Purchase.
28. All documents referring to Opposer, Opposer's GOOGLE Mark, Opposer's YOUTUBE Marks, or the YouTube Purchase.
29. All documents referring or relating to the web page located at <http://blogs.zdnet.com/ip-telephony/?p=1274>.
30. All documents which record, refer or relate to any actual or alleged instance of confusion between the GOOTUBE Mark and any third party name or mark.
31. All documents which record, refer or relate to any dispute identified in response to Interrogatory 28, served contemporaneously herewith.
32. All documents identified in response to Opposer's First Set of Interrogatories to Applicant not provided in response to the above requests.

33. All documents that Applicant intends to offer as exhibits in this Opposition.
34. All documents identifying, describing or relating to Applicant's document retention policy and system.

DATED: September 23, 2009.

<p>CERTIFICATE OF SERVICE</p> <p>I hereby certify that this, OPPOSER'S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS AND THINGS, is being deposited with the United States Postal Service with sufficient postage as first class mail on September <u>23</u>, 2009 in an envelope addressed to Applicant's counsel: Michael F. Hughes, Hughes Law Firm PLLC, 4164 Meridian Street, Suite 302, Bellingham, Washington 98266-5583.</p> <p>Signature: </p> <p>Printed Name: <u>Karen Chakentian</u></p>	<p>PERKINS COIE LLP</p> <p>By  William C. Rava Richard R. Ronald Perkins Coie LLP 1201 Third Avenue, 40th Floor Seattle, Washington 98101-3099 (206) 359-3036 Attorneys for Google Inc.</p>
--	--

Attachment 2

Ronald, Richard R. (Perkins Coie)

From: Mike Hughes [mhughes@inventionlaw.com]
Sent: Friday, October 23, 2009 12:17 PM
To: Ronald, Richard R. (Perkins Coie)
Subject: gootube

Hi Ron,

Would you agree to an extension to the discovery request regarding the GOOTUBE matter.

Thank you.

--
*

Mike Hughes
Patent Attorney
Mechanical Engineer B.S.
Hughes Law Firm, PLLC
5160 Industrial Place, Suite 107
Ferndale, WA 98248
(360) 647-1296
fax (360) 671-2489
www.inventionlaw.com

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Attachment 3

Ronald, Richard R. (Perkins Coie)

From: Ronald, Richard R. (Perkins Coie)
Sent: Wednesday, October 28, 2009 2:23 PM
To: 'Mike Hughes'
Cc: Rava, William C. (Perkins Coie)
Subject: RE: gootube (41063-7016.0000.PX001)

Mike:

I do not believe the client will agree to such a lengthy extension this late in the process, especially with the possibility of a change in counsel and the delays that such a move would entail. Please note that our client spoke directly to your client regarding a possible settlement in March and has waited for a good faith response since then. We also delayed the filing of discovery on a number of occasions to give your client more time to make a counterproposal, which has not been forthcoming.

The client might agree to a shorter time frame--along the lines of 14 days--provided you can guarantee we would receive actual and complete responses to our requests.

Sincerely,

-Richard

Richard R. Ronald | Perkins Coie LLP
1201 Third Avenue, Suite 4800
Seattle, WA 98101-3099
Phone: 206.359.8255
Fax: 206.359.9255
Email: rronald@perkinscoie.com

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-----Original Message-----

From: Mike Hughes [mailto:mhughes@inventionlaw.com]
Sent: Tuesday, October 27, 2009 4:00 PM
To: Ronald, Richard R. (Perkins Coie)
Subject: Re: gootube /

Hi Ron,

Could we have a 45 day extension. We might transfer this file to another attorney that handles oppositions on a more regular basis.

Thank you.
Mike Hughes

Ronald, Richard R. (Perkins Coie) wrote:

> Mike:
>
> How long do you need to prepare the responses?
>
> Sincerely,
>
>
> -Richard
>
>

>
>
> IRS CIRCULAR 230 DISCLOSURE: To ensure compliance with Treasury Department and IRS regulations, we inform you that, unless expressly indicated otherwise, any federal tax advice contained in this communication (including any attachments) is not intended or written by Perkins Coie LLP to be used, and cannot be used by the taxpayer, for the purpose of (i) avoiding penalties that may be imposed on the taxpayer under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein (or any attachments).

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> * * * * *

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>
>

--
*
Mike Hughes
Patent Attorney
Mechanical Engineer B.S.
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Attachment 4

Ronald, Richard R. (Perkins Coie)

From: Ronald, Richard R. (Perkins Coie)
Sent: Monday, November 02, 2009 10:07 PM
To: Mike Hughes
Cc: Rava, William C. (Perkins Coie)
Subject: FW: gootube (41063-7016.0000.PX001)

Dear Mike:

It does not appear that we have received either a response to my email below or timely responses to our discovery requests. Accordingly, your responses are delinquent and you have waived any right to object to answering any of the interrogatories or from producing any documents requested. Additionally, you are deemed to have admitted each of the propounded requests for admission, absent a showing of excusable neglect or a successful motion to withdraw or amend the admissions.

It is our hope that we can keep these proceedings moving along in an amiable manner, and that a motion to compel responses will not be needed. We would like to schedule a brief meet-and-confer to discuss these issues. Please let us know of a good time to call you tomorrow or Wednesday.

Sincerely,

-Richard

-----Original Message-----

From: Ronald, Richard R. (Perkins Coie)
Sent: Wednesday, October 28, 2009 2:23 PM
To: 'Mike Hughes'
Cc: Rava, William C. (Perkins Coie)
Subject: RE: gootube (41063-7016.0000.PX001)

Mike:

I do not believe the client will agree to such a lengthy extension this late in the process, especially with the possibility of a change in counsel and the delays that such a move would entail. Please note that our client spoke directly to your client regarding a possible settlement in March and has waited for a good faith response since then. We also delayed the filing of discovery on a number of occasions to give your client more time to make a counterproposal, which has not been forthcoming.

The client might agree to a shorter time frame--along the lines of 14 days--provided you can guarantee we would receive actual and complete responses to our requests.

Sincerely,

-Richard

11/4/2009

Richard R. Ronald | Perkins Coie LLP
1201 Third Avenue, Suite 4800
Seattle, WA 98101-3099
Phone: 206.359.8255
Fax: 206.359.9255
Email: rronald@perkinscoie.com

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-----Original Message-----

From: Mike Hughes [<mailto:mhughes@inventionlaw.com>]
Sent: Tuesday, October 27, 2009 4:00 PM
To: Ronald, Richard R. (Perkins Coie)
Subject: Re: gootube

Hi Ron,

Could we have a 45 day extension. We might transfer this file to another attorney that handles oppositions on a more regular basis.

Thank you.
Mike Hughes

Ronald, Richard R. (Perkins Coie) wrote:

Mike:

How long do you need to prepare the responses?

Sincerely,

-Richard

Richard R. Ronald | Perkins Coie LLP
1201 Third Avenue, Suite 4800
Seattle, WA 98101-3099

11/4/2009

*: 206.359.8255

7: 206.359.9255

*: ronald@perkinscoie.com

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-----Original Message-----

From: Mike Hughes [<mailto:mhughes@inventionlaw.com>]

Sent: Friday, October 23, 2009 12:17 PM

To: Ronald, Richard R. (Perkins Coie)

Subject: gootube

Hi Ron,

Would you agree to an extension to the discovery request regarding the

GOOTUBE matter.

Thank you.

--

*

Mike Hughes

Patent Attorney

Mechanical Engineer B.S.

11/4/2009

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* * * * *

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--
*

Mike Hughes
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Attachment 5

Chekenian, Karen (Perkins Coie)

From: Mike Hughes [mhughes@inventionlaw.com]
Sent: Thursday, November 05, 2009 2:46 PM
To: Ronald, Richard R. (Perkins Coie)
Subject: Re: FW: gootube (41063-7016.0000.PX001)

Hi Richard,

I would like to discuss this matter further tomorrow if possible.

Thank you.
Mike Hughes

Ronald, Richard R. (Perkins Coie) wrote:

Dear Mike:

It does not appear that we have received either a response to my email below or timely responses to our discovery requests. Accordingly, your responses are delinquent and you have waived any right to object to answering any of the interrogatories or from producing any documents requested. Additionally, you are deemed to have admitted each of the propounded requests for admission, absent a showing of excusable neglect or a successful motion to withdraw or amend the admissions.

It is our hope that we can keep these proceedings moving along in an amiable manner, and that a motion to compel responses will not be needed. We would like to schedule a brief meet-and-confer to discuss these issues. Please let us know of a good time to call you tomorrow or Wednesday.

Sincerely,

-Richard

-----Original Message-----

From: Ronald, Richard R. (Perkins Coie)
Sent: Wednesday, October 28, 2009 2:23 PM
To: 'Mike Hughes'
Cc: Rava, William C. (Perkins Coie)
Subject: RE: gootube (41063-7016.0000.PX001)

Mike:

I do not believe the client will agree to such a lengthy extension this late in the process, especially with the possibility of a change in counsel and the delays that such a move would entail. Please note that our client spoke directly to your client regarding a possible settlement in March and has waited for a good faith response since then. We also delayed the filing of discovery on a number of occasions to give your client more time to make a counterproposal, which has not been forthcoming.

11/5/2009

The client might agree to a shorter time frame--along the lines of 14 days--provided you can guarantee we would receive actual and complete responses to our requests.

Sincerely,

-Richard

Richard R. Ronald | Perkins Coie LLP
1201 Third Avenue, Suite 4800
Seattle, WA 98101-3099
Phone: 206.359.8255
Fax: 206.359.9255
Email: rronald@perkinscoie.com

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-----Original Message-----

From: Mike Hughes [<mailto:mhughes@inventionlaw.com>]
Sent: Tuesday, October 27, 2009 4:00 PM
To: Ronald, Richard R. (Perkins Coie)
Subject: Re: gootube

Hi Ron,

Could we have a 45 day extension. We might transfer this file to another attorney that handles oppositions on a more regular basis.

Thank you.
Mike Hughes

Ronald, Richard R. (Perkins Coie) wrote:

Mike:

How long do you need to prepare the responses?

Sincerely,

-Richard

11/5/2009

Richard R. Ronald | Perkins Coie LLP

1201 Third Avenue, Suite 4800

Seattle, WA 98101-3099

*: 206.359.8255

7: 206.359.9255

*: rronald@perkinscoie.com

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the taxpayer under the Internal Revenue Code of 1986, as amended.

-----Original Message-----

From: Mike Hughes [<mailto:mhughes@inventionlaw.com>]

Sent: Friday, October 23, 2009 12:17 PM

To: Ronald, Richard R. (Perkins Coie)

Subject: gootube

Hi Ron,

Would you agree to an extension to the discovery request regarding the

GOOTUBE matter.

Thank you.

11/5/2009

--
*

Mike Hughes

Patent Attorney

Mechanical Engineer B.S.

Hughes Law Firm, PLLC

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Ferndale, WA 98248

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fax (360) 671-2489

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* * * * *

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--
*

Mike Hughes
Patent Attorney
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5160 Industrial Place, Suite 107
Ferndale, WA 98248
(360) 647-1296

11/5/2009

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--

*

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Attachment 6

Rava, William C. (Perkins Coie)

From: Rava, William C. (Perkins Coie)
Sent: Monday, November 09, 2009 10:26 AM
To: 'mhughes@inventionlaw.com'
Cc: Ronald, Richard R. (Perkins Coie)
Subject: RE: gootube (41063-7016.0000.PX001)
Attachments: GOOTUBE Motion to Suspend.pdf

Mike,

Following up on this email string and my vmail from Friday. Relatedly, we filed the attached motion on Thursday.

Please let me know a good time to discuss. I'm generally in the office this week. Thanks,

Will

William C. Rava | Perkins Coie LLP

1201 Third Avenue, Suite 4800
Seattle, WA 98101-3099
PHONE: 206.359.6338
FAX: 206.359.7338
E-MAIL: wrava@perkinscoie.com

From: "Mike Hughes" <mhughes@inventionlaw.com>
Date: November 5, 2009 2:45:55 PM PST
To: "Ronald, Richard R. (Perkins Coie)" <RRonald@perkinscoie.com>
Subject: Re: FW: gootube (41063-7016.0000.PX001)

Hi Richard,

I would like to discuss this matter further tomorrow if possible.

Thank you.
Mike Hughes

Ronald, Richard R. (Perkins Coie) wrote:

Dear Mike:

It does not appear that we have received either a response to my email below or timely responses to our discovery requests. Accordingly, your responses are delinquent and you have waived any right to object to answering any of the interrogatories or from producing any documents requested. Additionally, you are deemed to have admitted each of the propounded requests for admission, absent a showing of excusable neglect or a successful motion to withdraw or amend the admissions.

11/18/2009

It is our hope that we can keep these proceedings moving along in an amiable manner, and that a motion to compel responses will not be needed. We would like to schedule a brief meet-and-confer to discuss these issues. Please let us know of a good time to call you tomorrow or Wednesday.

Sincerely,

-Richard

-----Original Message-----

From: Ronald, Richard R. (Perkins Coie)

Sent: Wednesday, October 28, 2009 2:23 PM

To: 'Mike Hughes'

Cc: Rava, William C. (Perkins Coie)

Subject: RE: gootube (41063-7016.0000.PX001)

Mike:

I do not believe the client will agree to such a lengthy extension this late in the process, especially with the possibility of a change in counsel and the delays that such a move would entail. Please note that our client spoke directly to your client regarding a possible settlement in March and has waited for a good faith response since then. We also delayed the filing of discovery on a number of occasions to give your client more time to make a counterproposal, which has not been forthcoming.

The client might agree to a shorter time frame--along the lines of 14 days--provided you can guarantee we would receive actual and complete responses to our requests.

Sincerely,

-Richard

Richard R. Ronald | Perkins Coie LLP
1201 Third Avenue, Suite 4800
Seattle, WA 98101-3099

11/18/2009

Phone: 206.359.8255
Fax: 206.359.9255
Email: rronald@perkinscoie.com

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-----Original Message-----

From: Mike Hughes [<mailto:mhughes@inventionlaw.com>]
Sent: Tuesday, October 27, 2009 4:00 PM
To: Ronald, Richard R. (Perkins Coie)
Subject: Re: gootube

Hi Ron,

Could we have a 45 day extension. We might transfer this file to another attorney that handles oppositions on a more regular basis.

Thank you.
Mike Hughes

Ronald, Richard R. (Perkins Coie) wrote:

Mike:

How long do you need to prepare the responses?

Sincerely,

-Richard

Richard R. Ronald | Perkins Coie LLP
1201 Third Avenue, Suite 4800
Seattle, WA 98101-3099

11/18/2009

*: 206.359.8255

7: 206.359.9255

*: [rronald@perkinscoie.com](mailto:ronald@perkinscoie.com)

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taxpayer, for the purpose of avoiding penalties that may be imposed on

the taxpayer under the Internal Revenue Code of 1986, as amended.

-----Original Message-----

From: Mike Hughes
[<mailto:mhughes@inventionlaw.com>]

Sent: Friday, October 23, 2009 12:17 PM

To: Ronald, Richard R. (Perkins Coie)

Subject: gootube

Hi Ron,

Would you agree to an extension to the discovery request regarding the

GOOTUBE matter.

Thank you.

--

11/18/2009

*

Mike Hughes

Patent Attorney

Mechanical Engineer B.S.

Hughes Law Firm, PLLC

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Ferndale, WA 98248

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fax (360) 671-2489

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* * * * *

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Attachment 7

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

GOOGLE INC.,

Opposer,

v.

ERIC WATSON,

Applicant.

Opposition No.: 91183905

DECLARATION OF WILLIAM C.
RAVA IN SUPPORT OF MOTION TO
COMPEL DISCOVERY ANSWERS

William C. Rava, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, declares that:

1. I am a partner with the law firm of Perkins Coie LLP, and am one of the attorneys representing Opposer Google Inc. ("Opposer") in this case. I have personal knowledge of the facts set forth in this declaration and am competent to testify to its contents.


2. During a March 17, 2009 conversation between Applicant Eric Watson ("Applicant") and an in-house attorney at Opposer, Applicant represented that he would shortly thereafter make a concrete settlement proposal. Thereafter, between approximately March and August 2009, Opposer and Applicant stipulated to several extensions of the discovery deadlines so that the parties could discuss possible settlement of this matter. During this time, we made repeated requests and persistently followed-up with Applicant and his attorney, but Applicant never provided the promised settlement proposal. We therefore served the discovery requests that are the subject of this Motion.

3. Opposer has made a good faith effort, by conference and correspondence, to resolve the issues presented in this Motion and has been unable to reach an agreement. In particular, as indicated in the Motion and attached documents, we have sent Applicant's counsel

numerous emails and left him voicemail messages seeking to discuss and resolve the issues. As of this filing, Applicant's counsel has not responded to these communications.

I declare under penalty of perjury that the foregoing is true and correct.

EXECUTED this 18th day of November, 2009, at Seattle, Washington.



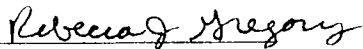
William C. Rava

1201 Third Avenue, 48th Floor
Seattle, Washington 98101-3099
(206) 359-8000

CERTIFICATE OF SERVICE

I hereby certify that this, OPPOSER'S MOTION TO SUSPEND, is being deposited with the United States Postal Service with sufficient postage as first class mail on November 18, 2009 in an envelope addressed to counsel for Applicant: Michael F. Hughes, Hughes Law Firm, PLLC, 5160 Industrial Place #107, Ferndale, WA 98248

Signature:



Printed Name:

Rebecca J. Gregory

ATTACHMENT 13

Ronald, Richard R. (Perkins Coie)

From: Ronald, Richard R. (Perkins Coie)
Sent: Wednesday, November 25, 2009 2:45 PM
To: 'Mike Hughes'
Cc: First Last; Rava, William C. (Perkins Coie); Edwards, Aimee J. (Perkins Coie)
Subject: RE: Gootube (Our Ref. 41063-7016.0000.PX001)

Dear Mike:

Thank you for your email. I will notify my client about the offer.

Hope you have a marvelous Thanksgiving.

-Richard

Richard R. Ronald | Perkins Coie LLP
1201 Third Avenue, Suite 4800
Seattle, WA 98101-3099
Phone: 206.359.8255
Fax: 206.359.9255
E-Mail: rronald@perkinscoie.com

IMPORTANT TAX INFORMATION: This communication is not intended or written by Perkins Coie LLP to be used, and cannot be used by the taxpayer, for the purpose of avoiding penalties that may be imposed on the taxpayer under the Internal Revenue Code of 1986, as amended.

-----Original Message-----

From: Mike Hughes [mailto:mhughes@inventionlaw.com]
Sent: Wednesday, November 25, 2009 2:24 PM
To: Ronald, Richard R. (Perkins Coie)
Cc: First Last
Subject: RE: Gootube

Ron,

If you are not handling this matter could you forward it to the appropriate individual handling this matter.

My client has come back to me with a settlement offer requesting \$90,000 USD for settling this matter and dropping his Federal Registration which includes a combination of his attorneys' fees incurred and the revenues he would have generated from exploiting the underlying website while this dispute was pending. The site garnered substantial traffic over the past several years, and given the pendency of this dispute he held off from exploiting it.

Thanks for your consideration of this offer, and feel free to email or call with questions.

--

*

Mike Hughes
Patent Attorney
Mechanical Engineer B.S.
Hughes Law Firm, PLLC
5160 Industrial Place, Suite 107
Ferndale, WA 98248
(360) 647-1296
fax (360) 671-2489
www.inventionlaw.com

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NaturallySpeaking 10.0Professional.
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errors may have occurred.

IMPORTANT NOTICE: This message is intended only for the use of the individual or entity to which it is addressed, and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication.

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*

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ATTACHMENT 14

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

MBA/vw

Mailed: December 30, 2009

Opposition No. 91183905

Google Inc.

v.

Eric Watson

Opposer's motion to compel discovery (filed November 18, 2009) is hereby granted as conceded.¹ Trademark Rule 2.127(a); *Central Mfg., Inc. v. Third Millenium Technology, Inc.*, 61 USPQ2d 1210 (TTAB 2001); *Boston Chicken, Inc. v. Boston Pizza Int'l, Inc.*, 53 USPQ2d 1053 (TTAB 1999).

Applicant is hereby ordered to serve no later than **THIRTY DAYS** from the mailing date of this order his responses, without objection on the merits, to opposer's first sets of interrogatories and requests for production. See, *No Fear, Inc. v. Rule*, 54 USPQ2d 1551 (TTAB 2000).

In the event applicant fails to respond to opposer's discovery requests as ordered herein, applicant may be subject to sanctions, potentially including entry of

¹ Opposer's change of correspondence address (filed November 30, 2009) is noted.

Opposition No. 91183905

judgment against him. Fed. R. Civ. P. 37(b)(2); Trademark Rule 2.120(g). Trial and other dates are reset as follows:

Plaintiff's Pretrial Disclosures	March 1, 2010
Plaintiff's 30-day Trial Period Ends	April 15, 2010
Defendant's Pretrial Disclosures	April 30, 2010
Defendant's 30-day Trial Period Ends	June 14, 2010
Plaintiff's Rebuttal Disclosures	June 29, 2010
Plaintiff's 15-day Rebuttal Period Ends	July 29, 2010

In each instance, a copy of the transcript of testimony together with copies of documentary exhibits, must be served on the adverse party within thirty days after completion of the taking of testimony. Trademark Rule 2.125.

Briefs shall be filed in accordance with Trademark Rule 2.128(a) and (b).

An oral hearing will be set only upon request filed as provided by Trademark Rule 2.129.

ATTACHMENT 2



Google AdSense for Domains

Earn revenue on your parked pages with Google AdSense for domains.

What is AdSense for domains?

AdSense for domains allows publishers with undeveloped domains to help users by providing relevant information including ads, links and search results.

With AdSense for domains, users can find relevant information rather than see empty pages or "page not found" errors. To ensure positive user experience and the quality of our network, these sites are monitored for policy compliance and prohibited from using text and images designed to confuse users.

AdSense for domains provides advertisers with additional opportunities to find their customers, and ads on these pages convert well. In addition, we regularly receive requests from advertisers who have found domains to be an effective way to reach their users.

If you have undeveloped domains, then AdSense for domains can help your users. To get started, check out our setup instructions, and visit our Help Center for more information.

Q: What domains are eligible for AdSense for domains?

A: AdSense for domains can be used on any domain that adheres to Google's policies.

Q: Is Google involved in the selection or registration of the domains in the AdSense for domains program?

A: Google is not involved with the selection or registration of these domain names, and is not in a position to arbitrate trademark disputes between the registrants, our partners, and trademark owners. Accordingly, we encourage trademark owners to resolve their disputes directly with the registrants or registrars. As a courtesy to trademark owners, Google provides a simple publicly available complaint procedure and, once notified of a legitimate complaint against a specific domain, Google will no longer serve ads to that domain. For instructions on how to file a complaint, please refer to the Trademark Complaint Process page. Additionally, a copy of our publicly available trademark policy is available online.

Q: Where can I find more information about the AdSense for domains program?

A: Please refer to our Help Center for more information.

©2010 Google

ATTACHMENT 3

Attn: Michael B. Adlin, Interlocutory Attorney
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

TTAB

Eric Watson
410 45th Street SW A
Everett WA 98203

RE: Opposition No. 91183905 Google Inc. v. Eric Watson

April 21, 2010

77020099

Dear Sir:

The idea that I no longer have an interest in pursuing this matter is completely false. There are a myriad of factors that have made it extremely difficult to attend to this case, and I will attempt to summarize as much as possible below. Please consider this a personal declaration, as I have not had a formal opportunity to present my own case thus far. I apologize in advance for any incorrect format.

BACKGROUND AND HISTORY

In addition to being a full-time firefighter for the past 16 years, I have been a serial entrepreneur both in hobby and in attempting to provide for my family. As it relates to this case, the most significant business in which I have been involved is a company called Kidz Kabz, LLC which I created in 2000 to address the transportation needs of pre- and school age children. I am passionate about helping people and have also always been a visionary, delighting in the ability to foresee technology which will improve lives and generally lead to better business and a productive economy. Unfortunately, because of a number of personal and financial factors, I have yet to capitalize on my ideas in 10 years.

One of my goals for Kidz Kabz was to be able to provide the ultimate service in safe and reliable transportation by incorporating into our website, the ability for parents to log on at anytime to monitor the progress of their child's transit through real-time video and continuous GPS and driver updates. At the time, there was no technology available to accomplish this task as there is today. Eventually in 2004, due to issues in my marriage and a lack of ability to devote the resources necessary to my business, I had to dissolve the company before I could fully realize its tremendous potential. Between 2004-2005, I had brainstormed many other ideas which came directly from my experience in that business, and throughout the year, I had purchased many domain names in order to secure a internet destination for some of my potential future businesses. Buying domain names for use in the future was a commonly accepted practice and was a necessity, since millions of domains were being sold every year, exponentially increasing the likelihood that a domain you wanted to use wouldn't be available once you



04-23-2010

finally got around to using it. In October of 2005 I had purchased the domain, GOOTUBE.COM along with at least a dozen other kid-centric domains (several of which also included the phonetic "GOO"). At the time, Youtube.com was in its infancy, and I had never even heard of it, as most of the world hadn't either. Also, I was vaguely familiar with the services of Google, and had only used their website for basic internet searches. I mention this, because at no time did I correlate either of those businesses with the assonance their names may have shared with the domains I purchased, nor would it have been possible for me or anyone else, including those entities themselves, to foresee their relationship over a year later.

My idea for GOOTUBE.COM was to be able to provide something for parents and kids along the lines of print, video, and rich media content (e.g. games and puzzles). It was a niche area that I saw nearly untouched in the market. My daughter was 2 years old, and having similar needs for this myself, I could not find websites addressing those needs. I always liked names that "rolled off the tongue" so to speak, with syllables that rhyme or have assonant qualities, as these are very easy to remember. I had thought that the combination of GOO, as commonly used for describing baby-talk, and TUBE, as commonly used for describing television, was a genius thought, and I purchased the domain name. At the very least, I thought I would have a perfect launch pad for selling goo in a tube, if I couldn't afford to do what I wanted with it.

As it happened, I ended up going through major life changes at that time because of family issues and subsequently lost nearly everything except my home, which incidentally was also in foreclosure. This was eventually sold too, so that I essentially had zero assets, and a marriage in turmoil. Obviously, I had absolutely no means to finance a new business venture, and in fact, by the end of 2006 I was facing the exorbitant costs of a very trying child custody dispute.

Around the this time, in October of 2006, Google surprised the world and made huge headlines by acquiring Youtube. The media took almost immediately to using the tongue-in-cheek mash-up GOOTUBE, in reference to this merger. Ironically, the only reason I knew about this, was that my email inbox became flooded with inquiries as to the status of this domain name, by opportunists who obviously wanted to somehow capitalize on owning this domain. I was never and would never be one of those people. In fact, within days of this announcement, I borrowed money from my parents and I filed a trademark application for GOOTUBE.COM in order to protect my intended business use of the name. I became intensely fearful that suddenly, thanks to sheer coincidence (or dumb luck, as they say), this name would be taken from me and that I would lose my ability to follow my dream of using it as I had planned.

Within 2 weeks of the merger, an internet blogger contacted me to get my opinion, and I responded with an honest commentary. He had also asked me if I would consider selling the name, and I suggested that I would sell under the right circumstances. I think that any prudent person, given the same situation and pressure, would have said the same thing, especially given the fact that I was nearly destitute at the time. Even though I contemplated it, I never did entertain any offers from anyone nor did I sell the name (even though I had offers), because I opted instead to stay true to my intention of preserving the use of this name for my own honest, ethical, and passionate purpose. Sadly, as much as I wanted to develop

my business, it was financially (and emotionally) impossible over the course of the next two years because of an expensive, stressful, and contentious divorce proceeding.

My trademark attorney was contacted within days of the final opposition date by Google attorneys to request an extension. Even though they waited until the last possible minute, we felt that it would be prudent to agree, in the interests of goodwill. There were several subsequent requests for extension by the Opposer which were also later granted. As far as I knew, there were no reasons given for the need to extend. With their unlimited legal and financial resources, I had assumed it inevitable that Google would out-manuever and outspend me as one of the strategies to undermine my trademark application. My attorney often represented me on a pro bono basis, as I obviously could not afford to pursue this with representation otherwise. However, his limited availability to me ended up being one of the major problems that contributed to a lack of response on my part throughout this action. He was not able to put much energy into this case, given his primary workload, and communication with me was infrequent and sporadic. Furthermore, I was not privy to the multitude of emails and phone conversations between him and the Opposer's attorneys, and I was largely uninformed. This is why I finally requested a direct conference in February 2009 with the Opposer, to become informed of the issues and clear up any misunderstandings.


On March 12, 2009, I had an open and candid phone conversation with Annabelle Daniel Varda, lasting about 30 minutes. I took the opportunity to explain and describe in detail, the history of how I came to the decision to choose the name and ultimately to apply for the trademark. During our conversation, Ms. Varda indicated that she did not think that there was any ill-intent with GOOTUBE.COM, but she did explain that I had no trademarks rights since I had not established use, and that was her main argument. She also expressed that on the web page associated with GOOTUBE.COM, there was an adult link, which was not consistent with my assertion that this was intended to be a child-friendly website. I made it very clear that the "parked" page was an automatically generated, ad-centric page created by a domain "parking" company which uses keywords from the domain name to generate relevant links on the page. The links, when clicked, generate small amounts of revenue for the parking company and domain owner while the domain is otherwise not being used. As the main keyword in this domain is the word "tube," naturally there were links generated that would direct a visitor to tube-related sites. The "tube-site" as it relates to the internet, has evolved to almost exclusively denote a website that displays or shares video content. The largest growth sector is probably adult "tube" sites, which is why my parking provider's algorithm would have selected such a link for display on the page. There are tens of thousands of "tube" websites proliferating on the internet, many of which are blatant copies of the Youtube.com business model, and which purchased their "tube" domain name well after the merger. It has become clear to me that the Opposer does not want me to have a trademark under which I would have the potential to operate in any similar fashion. Ms. Varda pressed several times for me to give her a dollar amount as a settlement figure in order for me to drop my trademark application. As with several previous email requests by their Seattle law firm to present a settlement offer, I refused at first because I felt there may be an implication that this was always my intent. I did not want a payoff. I wanted what I have always wanted since 2005, which is to run a business that would be successful and about which I could be passionate.

More than 6 months after that telephone conference, the Opposer presented me with Interrogatories and Discovery requests. Unfortunately, I was working 24-hour firefighter shifts, taking care of a 5-year old as a full-time single custodial parent, and had just been forced to start a new legal action in family court. These were all high priority items, and the pending trademark issue was something I just wasn't able to handle until now. Even as I write this, not only have I just completed a 3-month rigorous study regimen for a promotional Captain's test within my fire department, but I am also recovering from surgery two days ago. Prior to withdrawal by my trademark attorney, I had asked for an extension on the Admissions, Interrogatories and Discovery Requests based on my extraordinary extenuating circumstances and was flatly denied. I find that the denial was completely callous and unsympathetic, and also find it hypocritical and egregious considering our gracious acceptance of the long delays and continual requests for extensions by the Opposer earlier in this process.

In my conversation last year with Ms. Varda, she cited the story of David & Goliath, saying that she didn't want her company to come off as a bully. However, I feel that this case exemplifies exactly that. There are hundreds, if not thousands of websites which have unethically and blatantly copied the Youtube.com site after the merger, and even many more that are left unchecked to use Youtube.com video content as they see fit. I had a legitimate, narrowly focused, and unique use planned for my business idea and the name GOOTUBE.COM. I did everything the right way, except to miraculously come up with enough money, time, and energy to establish use of the name and make my dream a reality. I think that it is absolutely criminal that a company like Google can exert its monopolistic power and unlimited resources to suppress the ingenuity and aspirations of small-time, struggling entrepreneurs like myself, especially in today's economy. The settlement offer that I finally proposed under duress was nowhere near what I thought the lost business potential would be worth, but enough that I could let my aspirations for this particular business go, in favor of easing my stress, paying my attorney, and having a small amount of capital to start something else with the name GOOTUBE.COM instead. The Opposer has surely spent well over the amount proposed just in legal fees and time in dealing with this matter, so I can only assume that it is nothing more than a matter of principal, in essence, a continued effort to thwart and oppress anyone who comes near. It is very ironic that at the time that I purchased GOOTUBE.COM, not only was Youtube relatively unknown, but the company did not even have a trademark itself.

I respectfully request that at the very least, I be afforded due process and the ability to have the merits of my trademark application thoroughly review by the USPTO. Given some time, I can certainly provide answers to the Interrogatories and provide evidence to everything I have claimed in this statement. As well, I should be allowed the opportunity to ask questions and get discovery regarding the motives and business dealings of the Opposer in this case. However, I am only one man with a lot on his plate, and not an army of lawyers from the best law firms in the world as what represents the Opposer.

Thank You,

A handwritten signature in black ink, appearing to be "E. W. A." or similar, written in a cursive style.

Eric Watson